

228376

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THOMAS F. MCFARLAND

December 3, 2010

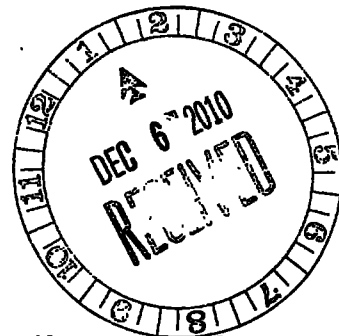
By UPS overnight mail

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings

DEC 6 2010

Part of
Public Record



Re: STB Docket No. AB-384 (Sub-No. 3X), *Delta Southern Railroad, Inc.* --
Abandonment Exemption -- in Desha and Chicot Counties, AR

Dear Ms. Brown:

Enclosed please find an original and 10 copies of Petition for Exemption for filing with the Board in the above referenced matter.

Also enclosed is a check in the amount of \$6,300 for the filing fee.

Very truly yours,

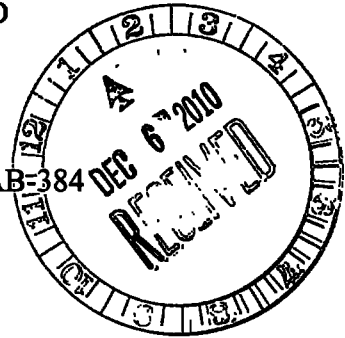
Tom McFarland

Thomas F. McFarland
Attorney for Petitioner

TMcf.kl enc:wp8.0\1462-A\trstb1

BEFORE THE
SURFACE TRANSPORTATION BOARD

DELTA SOUTHERN RAILROAD, INC. --)
ABANDONMENT EXEMPTION -- IN) DOCKET NO. AB-384
DESHA AND CHICOT COUNTIES, AR) (SUB-NO. 3X)
)



PETITION FOR EXEMPTION

FILED

DEC. 6. - 2010

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
DEC 6 - 2010
Part of
Public Record

DELTA SOUTHERN RAILROAD, INC.
P.O. Box 1709
Tallulah, LA 71284

Petitioner

FEE RECEIVED
DEC 6 - 2010
**SURFACE
TRANSPORTATION BOARD**

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
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Attorney for Petitioner

DATE FILED: December 6, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

DELTA SOUTHERN RAILROAD, INC. --)
ABANDONMENT EXEMPTION -- IN) DOCKET NO. AB-384
DESHA AND CHICOT COUNTIES, AR) (SUB-NO. 3X)
)

PETITION FOR EXEMPTION

Pursuant to 49 U.S.C. § 10502(a), 49 C.F.R. § 1152.60, and 49 C.F.R. § 1121.1, *et seq.*, DELTA SOUTHERN RAILROAD, INC. (DSR) hereby petitions for an exemption from the requirements of 49 U.S.C. § 10903 for abandonment of a 24.1-mile rail line between Milepost 408.9 at or near McGehee and Milepost 433.0 at or near Lake Village, in Desha and Chicot Counties, Arkansas (“the Rail Line”).

The facts asserted in the Petition are verified by DSR’s President, Mr. William Wainright, whose verification is attached to this Petition as Appendix 1.

THE SUBJECT RAIL LINE

The subject Rail Line extends between a point of connection with Union Pacific Railroad Company (UP) at or near McGehee (Milepost 408.9) and a point of connection with Southeast Arkansas Economic Development District (SAEDD) at or near Lake Village (Milepost 433.0), a distance of 24.1 miles in Desha and Chicot Counties, Arkansas. Attached to this Petition as Appendix 2 is a map on which the Rail Line has been shaded in yellow.

The Rail Line was constructed by UP predecessor Missouri Pacific Railroad Company (MP) between 1907 and 1915. DSR acquired the Rail Line as part of a purchase of rail lines from UP in 1989.

SAEDD acquired a connecting 21.8-mile segment of rail line between Lake Village and the Arkansas-Louisiana State Line from DSR in 2005 following a class exemption for abandonment of that segment in *Delta Southern Railroad, Inc. -- Aband. Exempt. -- between Lake Village, AR and Shelburn, LA*, 2005 WL 778772 (Docket No. AB-384 [Sub-No. 1X], decision served April 7, 2005), but before consummation of that abandonment.

REASONS FOR ABANDONMENT

An exemption is sought for abandonment of the Rail Line because (1) operation of the Rail Line is unprofitable; (2) there is no reasonable prospect for profitable operations; (3) the Rail Line requires substantial rehabilitation, the cost of which cannot be recovered from operating profits; (4) continued operation of the Rail Line would result in substantial opportunity costs; and (5) shippers on the line have feasible transportation alternatives.

1. Unprofitability

The only company to have made use of the Rail Line in the past 10 years is Epstein Gin (Epstein), 537 Reynolds Street, Lake Village, AR 71653. Epstein has shipped cottonseeds by rail over the Rail Line. Epstein's shipping facility is located at Lake Village at approximately Milepost 431.3, about 2.7 miles north of the southern terminus of the proposed abandonment.

Epstein's use of the Rail Line in recent years has declined radically. Epstein shipped 451 carloads over the Line in 2008, but shipped only 81 carloads in 2009, a decline of more than 82

percent. Epstein's rail shipments have remained low in 2010, i.e., 20 carloads during the first ten months of 2010.

The Rail Line was embargoed due to unsafe track conditions, effective November 2, 2010. Epstein has stated that it would have shipped 40 additional carloads but for that embargo. That would have brought its rail shipments for 2010 to a total of 60. That traffic level reflects an additional decline of 26 percent from Epstein's already reduced traffic level in 2009, and a decline of 87 percent from Epstein's 2008 rail traffic.

Based on Epstein's likely 2010 rail traffic volume had the Rail Line not been embargoed, DSR has estimated that Epstein's use of the Rail Line in a forecast year (i.e., 2011) would be 60 carloads. Based on Epstein's actual use of the Rail Line in 2009 and its projected use of the Line in 2010, there is no credible evidence to show that Epstein's future use of the Rail Line would be anywhere near its use of the Rail Line in 2008. Any projection of forecast year traffic in excess of 60 carloads would be unduly speculative.

Any contention that a shipper other than Epstein will locate on the Rail Line and ship by rail would also be contrary to the evidence. As noted above, Epstein has been the only rail shipper on the Line for more than 10 years in the past. There is nothing to suggest that any other rail shipper will locate on the Line. The area surrounding the Rail Line is rural, making it highly unlikely that a rail-served industry will locate on the Line in the future.

As demonstrated below, there would be a very substantial operating loss in a forecast year at a 60-car traffic level.

DSR currently derives \$341.59 per car for transportation of Epstein's traffic. Assuming a 3-percent increase in per-car revenue in 2011, DSR would derive \$351.84 per car for

transportation of Epstein's traffic in a forecast year. At that revenue level, DSR would derive total revenue of \$21,110 from transportation of 60 carloads for Epstein in a forecast year.

That revenue would fall far short of enabling DSR to operate the Rail Line at a profit in a forecast year. The cost for DSR to maintain the track and bridges on the Rail Line alone would amount to approximately \$144,600 in the forecast year, based on an average maintenance cost of \$6,000 per mile per year that the Board has recognized as a reasonable estimate of such cost in other abandonment cases. (\$6,000 per mile x 24.1 miles = \$144,600). *See, e.g., Conrail - Aban. - bet. Warsaw & Valp. Counties, IN*, 9 I.C.C. 2d 1299, 1304 (1993). Thus, considering only maintenance costs, DSR would suffer a forecast year operating loss of \$123,490.

Rail service to Epstein is provided by a two-person train crew operating a 1,500-horsepower locomotive originating at McGehee, AR, and operating round-trip approximately 50 miles between that point and Lake Village, AR. The substantial avoidable costs of the train crew, locomotive, and freight cars associated with provision of that service would add appreciably to the forecast year loss from operating the Rail Line.

There would be a serious adverse effect on DSR and on DSR's ability to provide quality rail service to its other shippers if DSR were to be required to bear operating losses in excess of \$123,000 per year on a continuing basis. Consistently with Constitutional provisions, a rail carrier cannot be required to operate a rail line at a loss for an extended period of time. *See Brooks-Scanlon v. Railroad Com. of Louisiana*, 251 U.S. 396, 399 (1920).

2. Rehabilitation

DSR has been forced to defer track and bridge maintenance on the Rail Line in order to economize in an effort to minimize operating losses and opportunity costs. As a result, the

physical condition of the Rail Line has seriously deteriorated. Virtually every rail length in the Rail Line has excessive defective crossties in clusters and under joints, such that crosstie conditions do not comply with minimum FRA Class I track safety standards. Track alignment, cross-level and gage are also out of compliance with FRA Class I standards at numerous locations. Eight bridges on the Rail Line are in serious need of extensive repair. There are numerous defective rails. The cumulative effect of these conditions has been to seriously compromise safety of operations over the Line. As a result, DSR has embargoed rail operations over the Line due to track conditions, effective November 2, 2010. A copy of that embargo is attached to this Petition as Appendix 3.

Appendix 4 attached to this Petition consists of a series of photographs of track and bridge conditions on the Rail Line at milepost locations noted adjacent to the photographs. The photographs were taken by Mr. William Wainright during a hi-rail inspection trip over the Rail Line on November 29, 2010. The photographs depict the seriously defective rail, crosstie, and bridge conditions on the Rail Line. The photographs are representative of rail, crosstie, and bridge conditions that exist throughout the Rail Line.

Mr. Wainright was accompanied on the November 29, 2010 hi-rail inspection trip over the Rail Line by Mr. William Vanderberry of McHann Railroad Services, Inc., Edwards, MS. That company is a leading consultant on railroad track and bridge construction and maintenance. Appendix 5 attached to this Petition is a copy of Mr. Vanderberry's Report of the results of his inspection of the Rail Line, dated December 1, 2010. Having carefully inspected the Line, Mr. Vanderberry stated that "(t)he complete track and bridges needs (sic) to be completely removed and new track and bridges reconstructed." (Appdx. 5, p.1). The estimated cost of that activity is

\$792,000 per mile for track work, or more than \$19 million for the 24.1-mile Rail Line, and \$1,368,779 for bridge replacement (*id.* at pp. 1-2).

DSR recognizes that in rail abandonment cases, rehabilitation costs are to be limited to those necessary to achieve FRA Class I track safety standards. Based on that standard, it would cost more than \$4 million to rehabilitate the track and bridges on the Rail Line to Class I standards. The components of that rehabilitation are shown in the table below.

Item of Rehabilitation	Cost Basis	Cost
1. Crosstie Replacement	Five non-defective ties per 39-foot rail length plus one non-defective tie under each joint at \$100 per tie installed (6 ties x 3,263 rail lengths x \$100)	\$1,957,800
2. Ballast Rock	\$3,363 per carload, eight carloads per mile, 24.1 miles	648,386
3. Rail Replacement	240 defective rails at \$400 per rail installed	96,000
4. Bridge Replacement	Per McHann Report	1,368,779
TOTAL		\$4,070,965

DSR would be unable to recover that cost from profit from operating the Rail Line because operation of the Rail Line will result in a substantial operating loss, not a profit. It would be a serious burden on DSR and on interstate commerce if a requirement of continued operation of the Rail Line were to force DSR to incur an unrecoverable cost in excess of \$4 million for required track and bridge rehabilitation.

3. Opportunity Cost

Opportunity costs are measured by the extent to which profit from operating a rail line falls short of providing a cost-of-capital return on the net liquidation value of the assets of the rail line. In addition to suffering operating losses and unrecoverable rehabilitation costs if required to

continue to operate the Rail Line, DSR would also be burdened as a result of incurring significant opportunity costs.

In 2005, DSR sold a 21.8-mile segment of rail line immediately to the south of the subject Rail Line to SAEDD. The assets in that segment are substantially similar to the assets in the subject Rail Line (e.g., weight and physical condition of rail and other track material, quality of title to land in the right-of-way, primarily rural use of adjacent land, etc.). Consequently, the unit value for liquidation of that rail line provides convincing evidence of the net liquidation value of the subject Rail Line. Application of that unit value of \$32,315 per mile to the 24.1 miles of the subject Rail Line results in a net liquidation value of \$778,791 for the Rail Line.^{1/}

The most recent cost of capital of the rail industry is 10.43 percent per year. *See Railroad Cost of Capital - 2009 Determination*, _____ STB _____ (Ex Parte No. 559 [Sub-No. 13], decision served October 29, 2010).

Application of that cost of capital to the net liquidation value of \$778,791 determined above results in a cost of capital return of \$81,228 per year on that value. Inasmuch as there would be no operating profit in a forecast year, continued operation of the Rail Line would result in an opportunity cost of \$81,228 per year. That would constitute an additional undue burden on DSR and interstate commerce.

^{1/} DSR reserves the right to perform an independent study of the net liquidation value of the Rail Line assets if an Offer of Financial Assistance were to be filed in this proceeding.

4. Transportation Alternatives

The adverse effect of abandonment on Epstein and other local interests would not be major because Epstein has feasible transportation alternatives that it is already. That is evident from the radical decline in rail traffic on the Line in recent years.

Facilities specifically designed for truck-to-rail transloading of cottonseeds are located at Jerome, AR, and at Portland, AR, both of which are located near Epstein's place of business at Lake Village, AR. Jerome, AR is located only 25 highway miles from Lake Village, and Portland, AR is located only 22 highway miles from Lake Village. There is excellent highway access between those points, i.e., (1) via U.S. Highway 82 and Arkansas Highway 165 between Lake Village and Jerome; and (2) via U.S. Highway 82 and Arkansas Highway 165 between Lake Village and Portland. Both Jerome and Portland are rail-served by Union Pacific Railroad Company (UP) on UP's main line route between Little Rock, AR and New Orleans, LA. Epstein has used both facilities for shipping cottonseeds in truck-rail transloading service.

Moreover, there is intensive all-truck competition in the area for transportation of cottonseeds, as well as excellent highway access to the Interstate Highway System. It is only 74 highway miles from Lake Village to Interstate Highway 20 at Monroe, LA via U.S. Highways 82 and 165. It is less than 100 miles from Lake Village to Interstate Highway 630 at Pine Bluff, AR via U.S. Highway 65.

The foregoing is not to say that Epstein would not experience an increase in freight charges upon abandonment of the Rail Line as a result of its use of truck-rail or all-truck transportation. However, that increased cost would not be expected to be extensive, based on Epstein's sharply reduced use of the Rail Line. The harm from that modest added expense would

be greatly outweighed by the serious harm to DSR and to interstate commerce that would result from continuing operating losses and opportunity costs, and from a substantial unrecoverable track and bridge rehabilitation cost. *Conrail - Aban. - bet. Warsaw & Valp. Counties, IN, supra*, 9 I.C.C.2d at 1317.

AN EXEMPTION IS WARRANTED

Abandonment of a rail line requires Board approval under 49 U.S.C. § 10903. However, on petition, the Board is to exempt a proposed abandonment from the requirement of such approval if the Board finds under 49 U.S.C. § 10502(a) that application of 49 U.S.C. § 10903 to the proposed abandonment is not required to carry out the rail transportation policy of 49 U.S.C. § 10101, and either that the proposed abandonment of limited scope, or that application of 49 U.S.C. § 10903 to the proposed abandonment is not necessary to protect shippers from abuse of market power.

In regard to the first standard of 49 U.S.C. § 10502(a), the need for regulation is to be tested against the provision(s) of the rail transportation policy that is (are) implicated by the statute from which an exemption is sought. As to abandonment and discontinuance under 49 U.S.C. § 10903, the rail policy most directly implicated is 49 U.S.C. § 10101(4) in favor of continuation of a sound rail transportation system to meet the needs of the public and the national defense. The issue is whether a conventional abandonment application is required to determine whether the abandonment and discontinuance should be approved or whether it is so apparent that continued operation of the line is not required for an adequate rail transportation system that abandonment can be authorized by exemption without the need for such an application.

There is an established body of case law in resolution of that issue. An exemption for abandonment is to be denied where affected shippers contest abandonment and it is not shown that the revenues from their traffic are clearly marginal compared to the cost of operating the involved rail line. *Gauley River Railroad, LLC -- Aband. & Discon. of Serv. Exempt. -- in Webster and Nicholas Counties, WV*, 1999 STB LEXIS 345 at *14 (STB Docket No. AB-559 [Sub-No. 1X], decision served June 16, 1999 at 5); *Central Railroad Co. of Indiana -- Aband. Exempt. -- in Dearborn, Decatur, Franklin, Ripley and Shelby Counties, IN*, 1998 STB LEXIS 121 at * 10 (STB Docket No. AB-459 [Sub-No. 2X], decision served May 4, 1998 at 9-10). However, an exemption is appropriate where it is apparent that the rail carrier would operate at a substantial loss, regardless of whether shippers oppose the exemption. *Minnesota Northern Railroad, Inc. -- Aband. Exempt. -- between Redland Jct. and Fertile, in Polk County, MN*, 1997 STB LEXIS 294 at * 25 (STB Docket No. AB-497 [Sub-No. 2X], decision served Nov. 14, 1997 at 11-12).

The case under consideration clearly fits into the latter category. Consideration of a conventional abandonment application is wholly unnecessary to support a determination that public convenience and necessity permit abandonment of the Rail Line. Considering maintenance costs alone, continued operation of the Line would result in a forecast year operating loss of over \$123,000. The loss would be far greater if applicable costs for the train crew, locomotive, and freight cars were to be factored into the result of operations. In consideration of actual Rail Line traffic in the most recent two-year period, there is no realistic prospect for anywhere near a traffic level that would permit operation of the Line to approach profitability.

Even if it were to be assumed, contrary to fact, that the Rail Line could be operated at a small annual profit, any such profit would not nearly be sufficient to amortize the huge cost of track and bridge rehabilitation within a reasonable period of time. It is not in the public interest to require a rail carrier to incur a substantial rehabilitation cost that it has no hope of recovering. *See Purcell v. United States*, 315 U.S. 381, 384 (1942).

A significant annual opportunity cost adds to the onerous burden on DSR and interstate commerce that would result from a requirement of continued operation of the Rail Line. *Missouri Pacific R. Co. v. United States*, 625 F.2d 178,180 (8th Cir. 1980).

It is evident that the burden on DSR and on interstate commerce decidedly outweighs the relatively light burden on Epstein that would result from an increase in freight charges.

For all of the foregoing reasons, application of 49 U.S.C. § 10903 to DSR's proposed abandonment of the Rail Line is not necessary to carry out the rail policy of 49 U.S.C. § 10101(4) or any other national rail policy.

Because Epstein has feasible transportation alternatives, application of 49 U.S.C. § 10903 to the proposed abandonment is not necessary to protect shippers from an abuse of market power. *Minnesota Northern Railroad, Inc. -- Aband. Exempt. -- between Redland Jct. and Fertile, in Polk County, MN, supra*, 1997 STB LEXIS 294 at *24. In light of that finding of no abuse of market power, the Board need not determine whether the proposed transaction is of limited scope. However, the proposed 24.1-mile abandonment is limited in scope. Epstein is being notified of the filing of this Petition.

Inasmuch as the evidence thus warrants the findings required by 49 U.S.C. § 10502(a), the Board should grant the proposed exemption.

ENVIRONMENTAL AND HISTORIC CONSIDERATIONS

A draft Environmental and Historic Report is attached to this Petition as Appendix 6. The Report forms the basis for a finding that the proposed abandonment would not have a significant adverse effect on the quality of the human environment nor on the preservation of historic resources. A comment on the draft Report is attached as Appendix 6-A.

EMPLOYEE PROTECTION

The Board should impose the employee protective conditions in *Oregon Short Line R. Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979), as a condition to approval of the proposed abandonment.

FEDERALLY-GRANTED RIGHT-OF-WAY

DSR does not have information in its possession to show that the Rail Line contains federally-granted right-of-way.

DRAFT FEDERAL REGISTER NOTICE

The draft Federal Register notice is attached to this Petition as Appendix 7.

NEWSPAPER NOTICE

Copies of notices published in newspapers of general circulation in Desha and Chicot Counties, Arkansas are attached as Appendix 8.

VERIFICATION

The verification of DSR President William Wainright is attached as Appendix 1 in support of the factual assertions contained in this Petition.

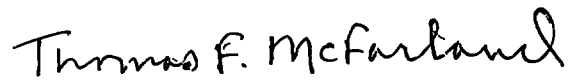
CONCLUSION AND REQUESTED RELIEF

WHEREFORE, the Board should grant the requested exemption.

Respectfully submitted,

DELTA SOUTHERN RAILROAD, INC.
P.O. Box 1709
Tallulah, LA 71284

Petitioner



THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1194
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

Attorney for Petitioner

DATE FILED: December 6, 2010

Docket No. AB-384 (Sub-No. 3X)
Appendix 1

VERIFICATION

WILLIAM WAINRIGHT, being duly sworn, states that he is President of Petitioner Delta Southern Railroad, Inc.; that he has knowledge of the facts asserted in the foregoing Petition for Exemption; and that those facts are true and correct.

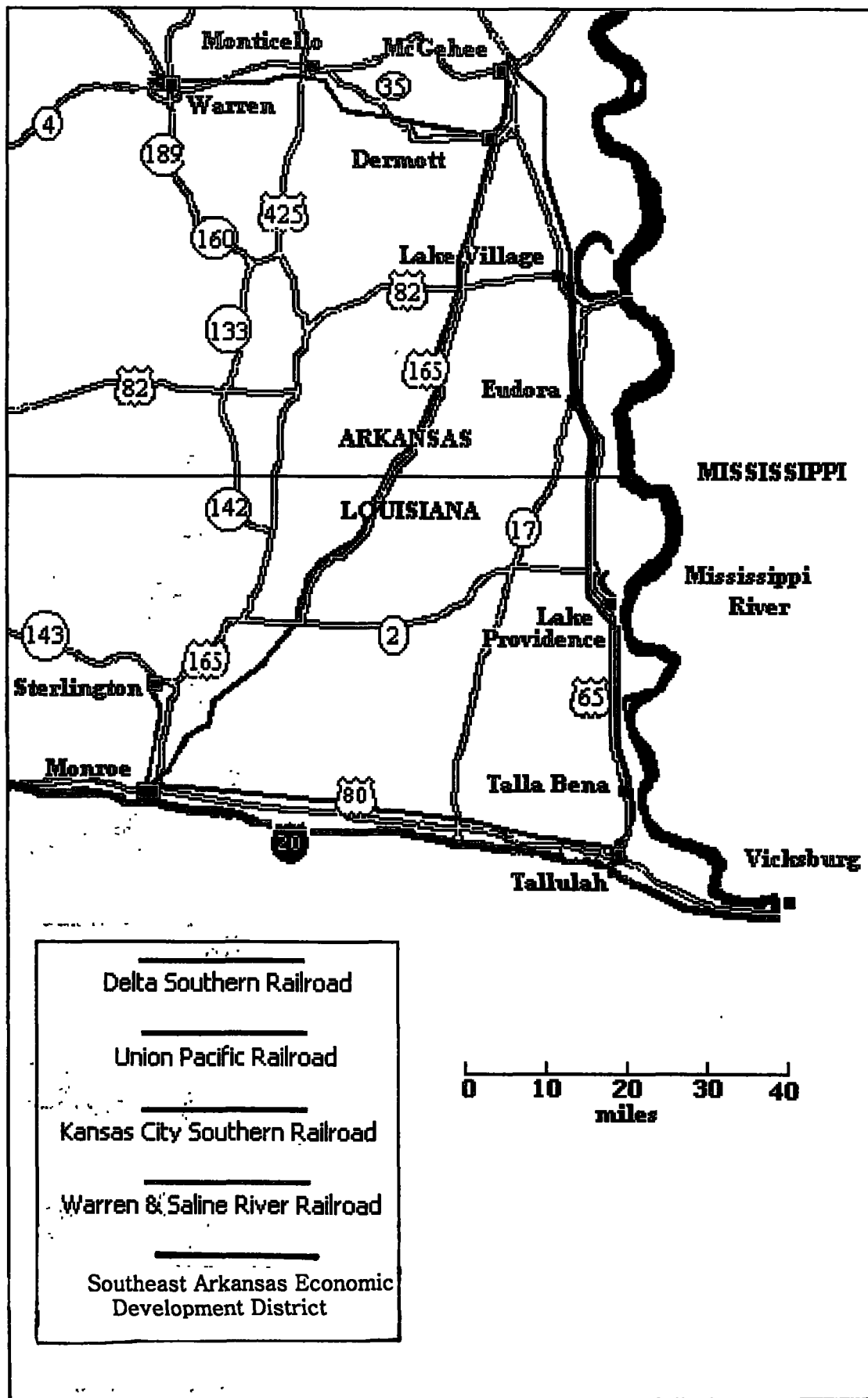

WILLIAM WAINRIGHT

SUBSCRIBED and SWORN to
before me this 1st day of
December, 2010.


Notary Public

BETTY L. STREET
NOTARY PUBLIC #80857
STATE OF LOUISIANA
MY COMMISSION IS FOR LIFE

My Commission expires: At death



PETITION FOR EXEMPTION

Appendix 3

Embargo

Robin Cedotal

From: "Embargo Permit DB System" <embargo_project@railinc.com>
To: <dsr100@inetsouth.com>
Sent: Tuesday, November 02, 2010 12:51 PM
Subject: Embargo #DSRR000110 has been requested on 11-02-2010
Embargo #DSRR000110 has been requested on 11-02-2010

DSRR-DELTA SOUTHERN RAILROAD COMPANY

Embargo Number: DSRR000110

Status: Pending

Effective Date: 11-02-2010
Expiration Date: 11-02-2011
Allow Permit: No
Tier 2 Effective Date:

Participating Roads: UP

Original Requester : KATHY MCAHAND - Ph: 1.318.5745420x20 - Email:
dsr100@inetsouth.com

Bypass Local Waybills: No

Operating Station Notice: No

Effective Immediately: No

Include Empty Revenue Cars: No

Include All Empty Cars: No

Maximum Car Allowed:

Commodities: Target All Commodities

Geography:

Included Locations:

From: DSRR-00005,MCGEHEE,AR
To: DSRR-00020,LAKE VILLAGE,AR
UNI-DIRECTIONAL

11/2/2010

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions

Except These Cars: No Cars In Exception List

Embargo/OPSL Umler Element Status: No Umler Element

Clearance Code: No Clearance Code

Waybill Parties: Target All Waybill Parties

Cause: Track Conditions

Cause Detail:

Note:

**Jeffrey J. Usher
Asst. Vice President-Business Services
Association of American Railroads**

AAR Embargo/OPSL Notes And Permit System (<https://aarembargo.railinc.com/epdb>)

Robin Cedotal

From: "Railinc Support" <railincsupport@railinc.com>
To: <dsr100@inetsouth.com>
Sent: Tuesday, November 02, 2010 1:03 PM
Subject: DO NOT REPLY -- Railinc Case Has Been Closed
Notification of Case Escalation

A Railinc Support Representative has closed your case.

If you feel this case has been closed in error or would like to submit a new case, please contact Railinc Customer Support Center at 1-877-RAILINC (1-877-724-5462) or csc@railinc.com.

Thank you,

Railinc Customer Support

Project: Service Desk
Case: Embargo #DSRR000110 has been requested on 11-02-2010
Case Number:45972

Status: Closed **Creation Date:**2010-11-02
Creation Time:13:51:23

Description:
Embargo approved

Current Assignees: CSC, Gloria Guthrie

Case Information:

Submission Method:Email **Type:** Product
Product: Embargo **Component:**Embargo Permit Database

Contact Information:

Last Name: Mcahand **First Name:** Kathy
Email Address:dsr100@inetsouth.com **Primary Phone Number:**1.318.5745420x20
Company: Delta Southern Railroad, Inc.

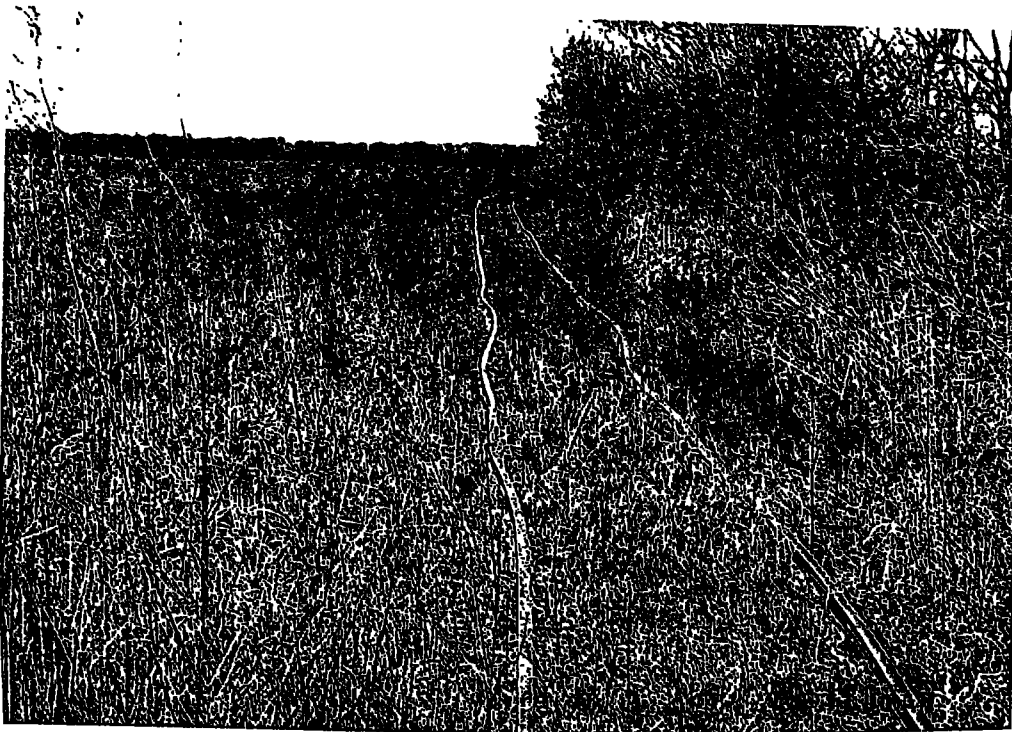
This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail.

11/2/2010

PETITION FOR EXEMPTION

Appendix 4

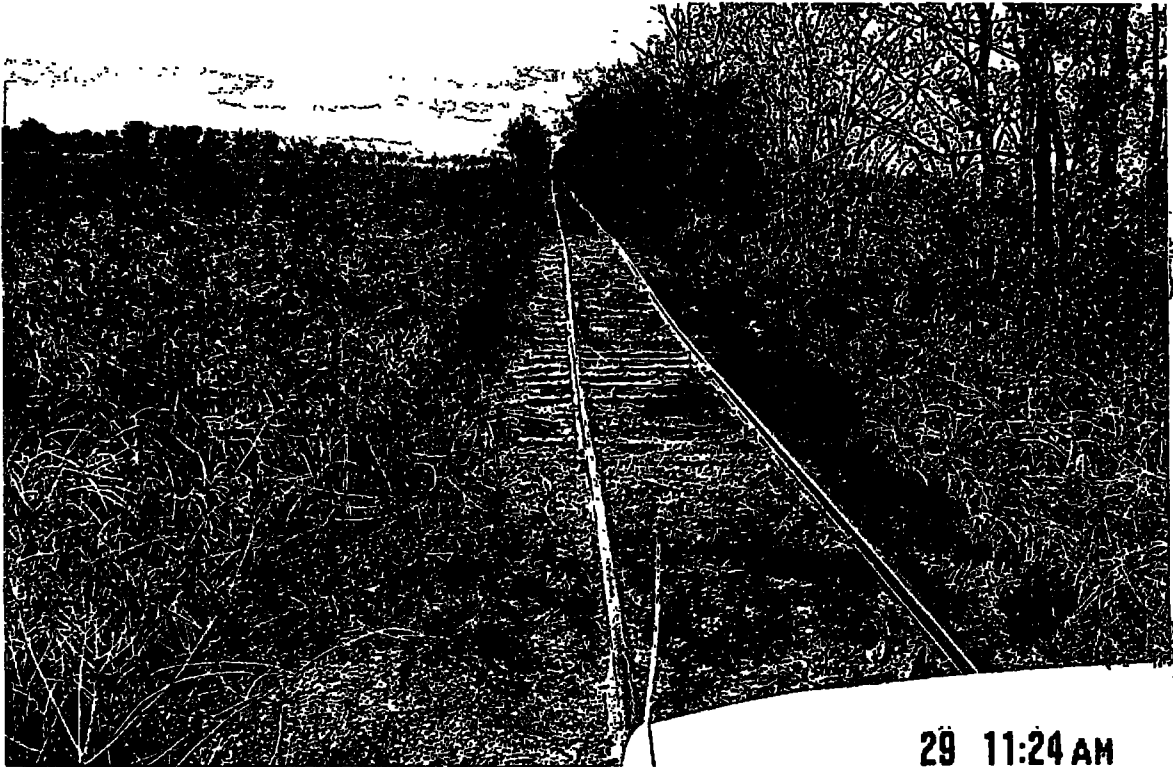
Photographs of track & bridge conditions



MP 413

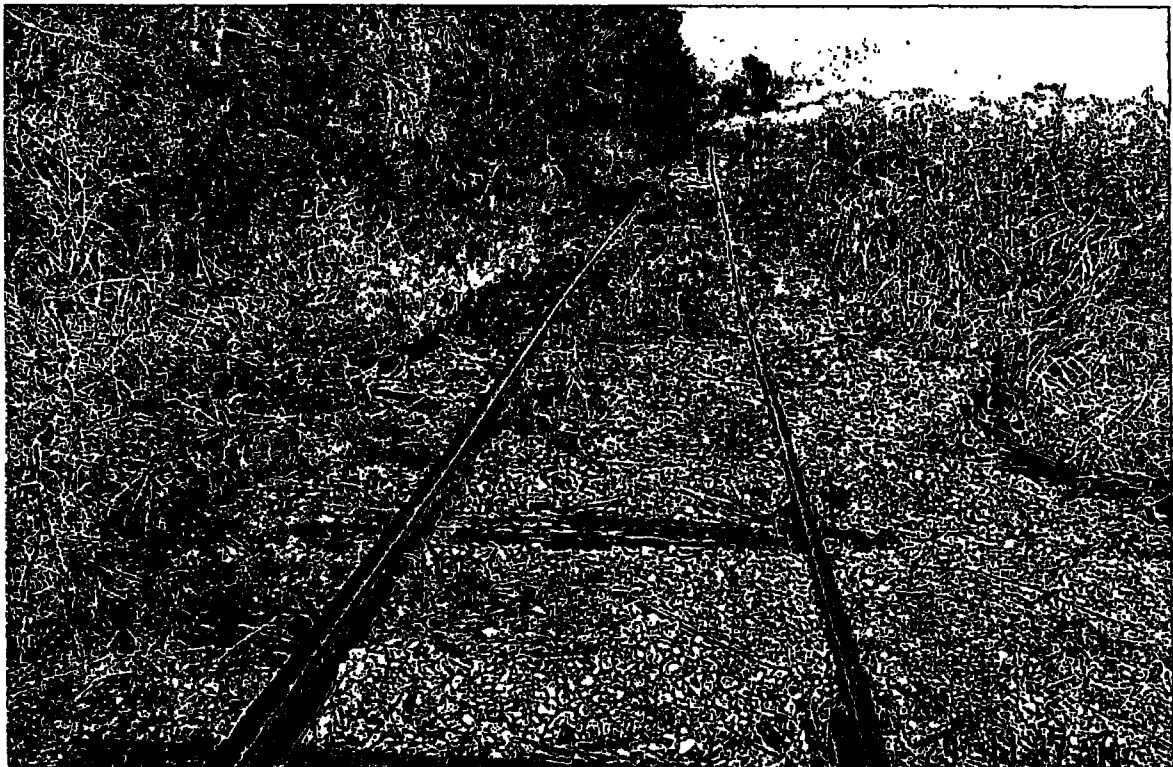


MP 413.5

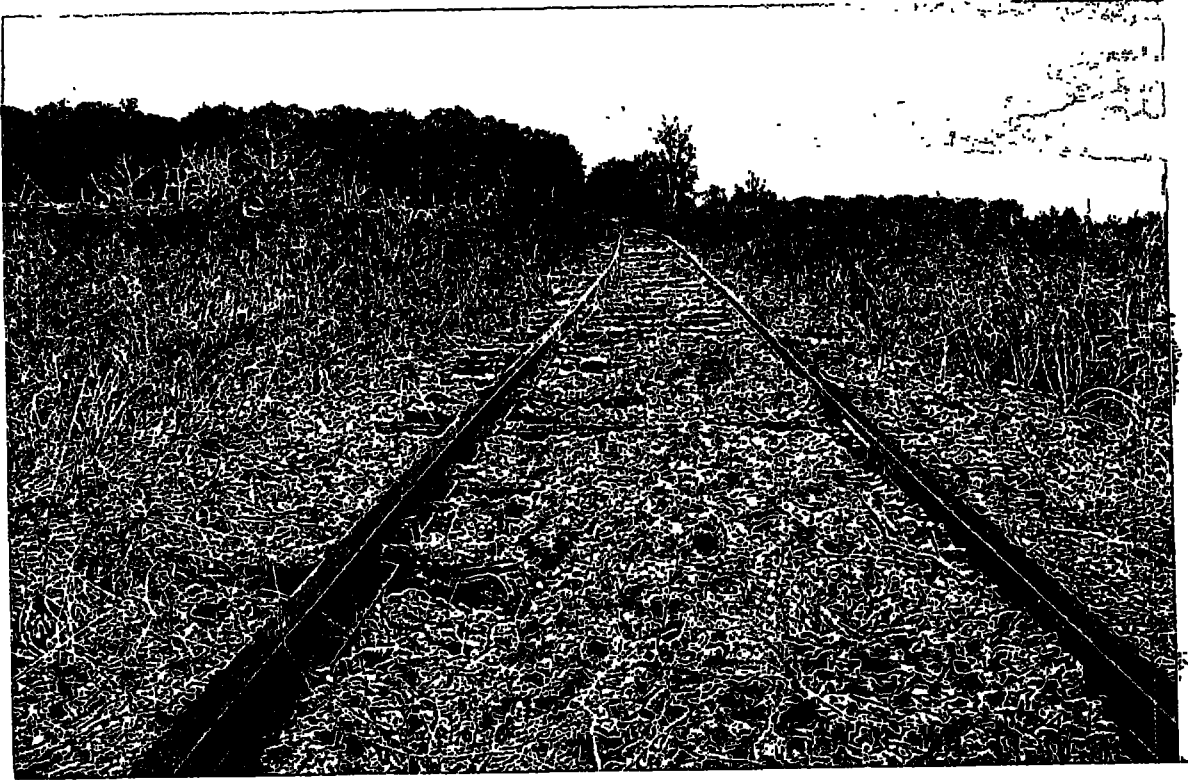


29 11:24 AM

MP 414.6



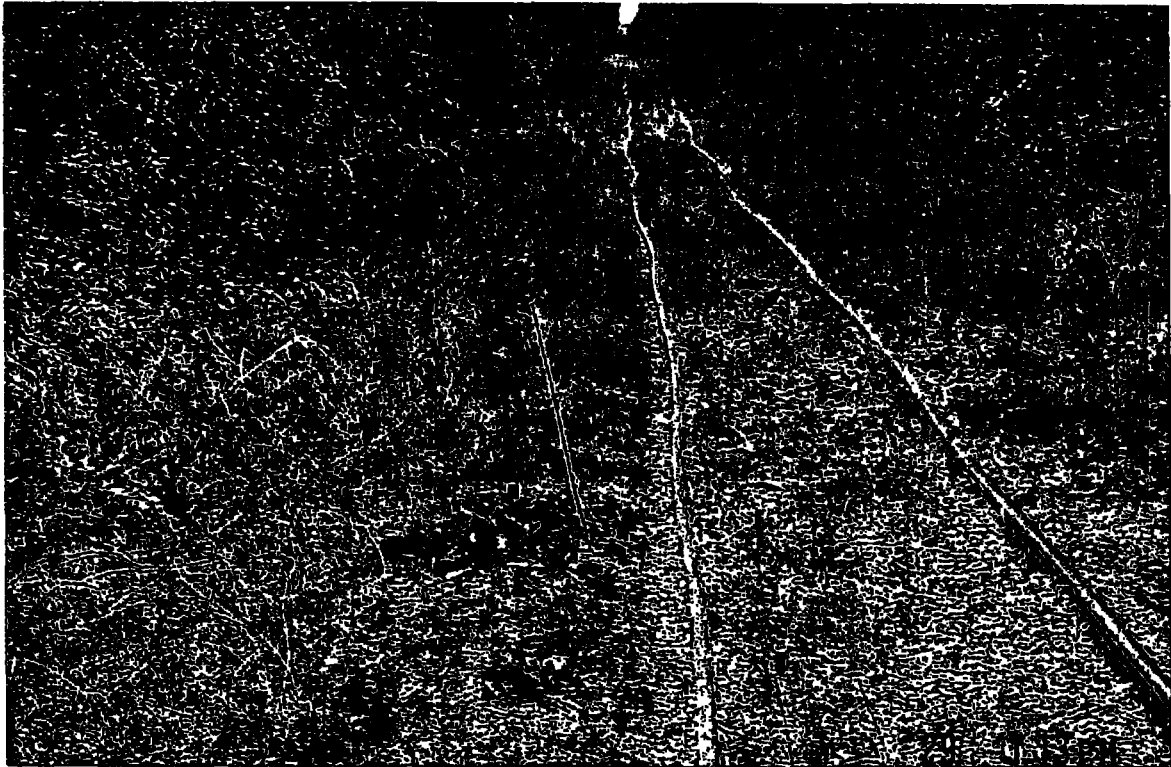
MP 415.5



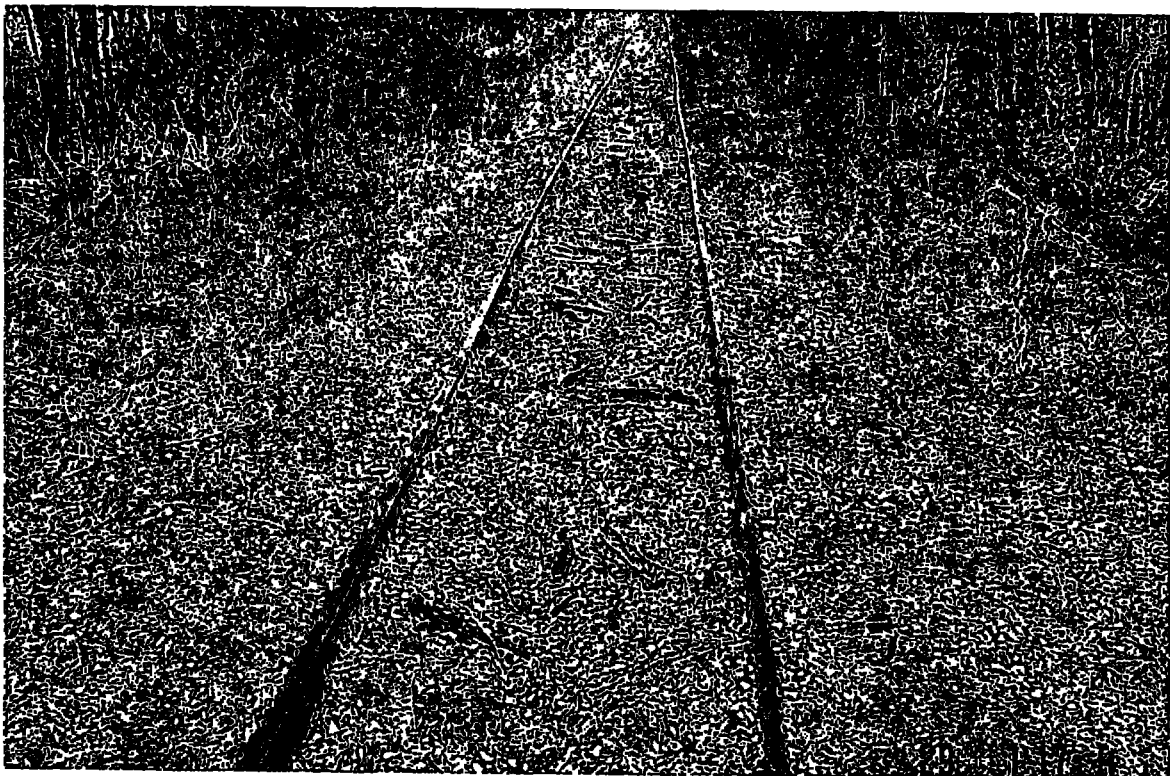
MP 416



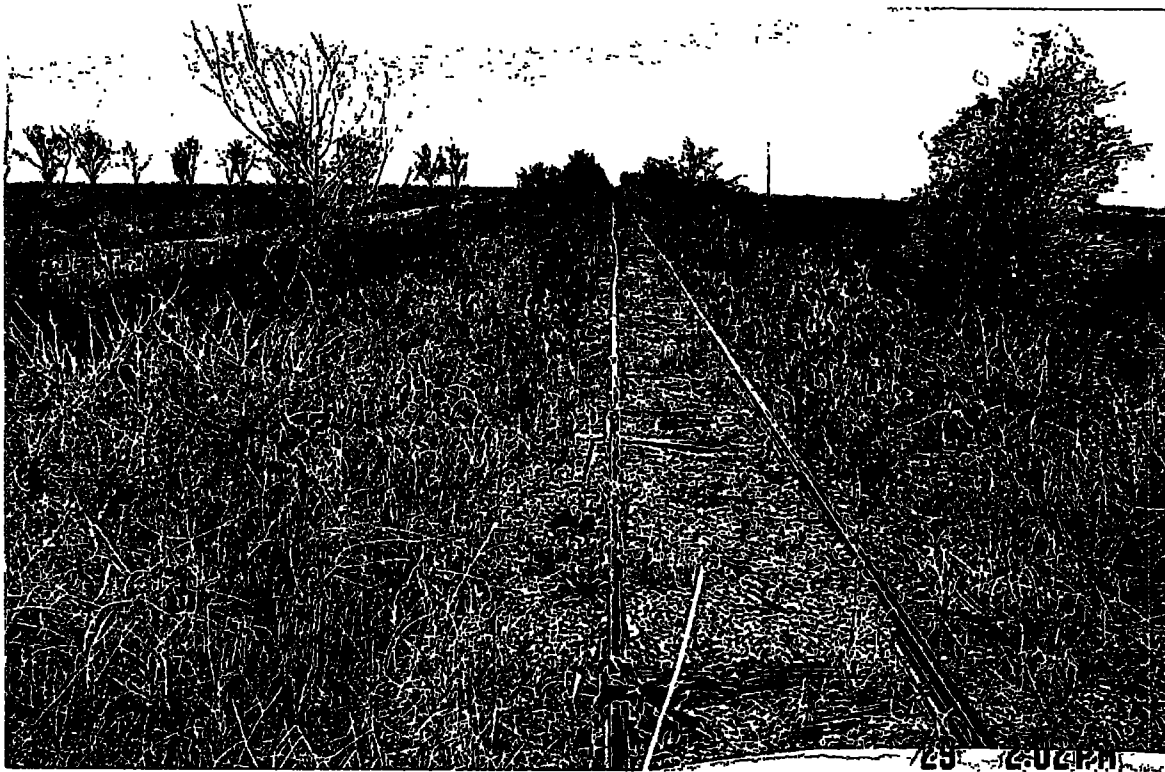
MP 417



MP 419.5



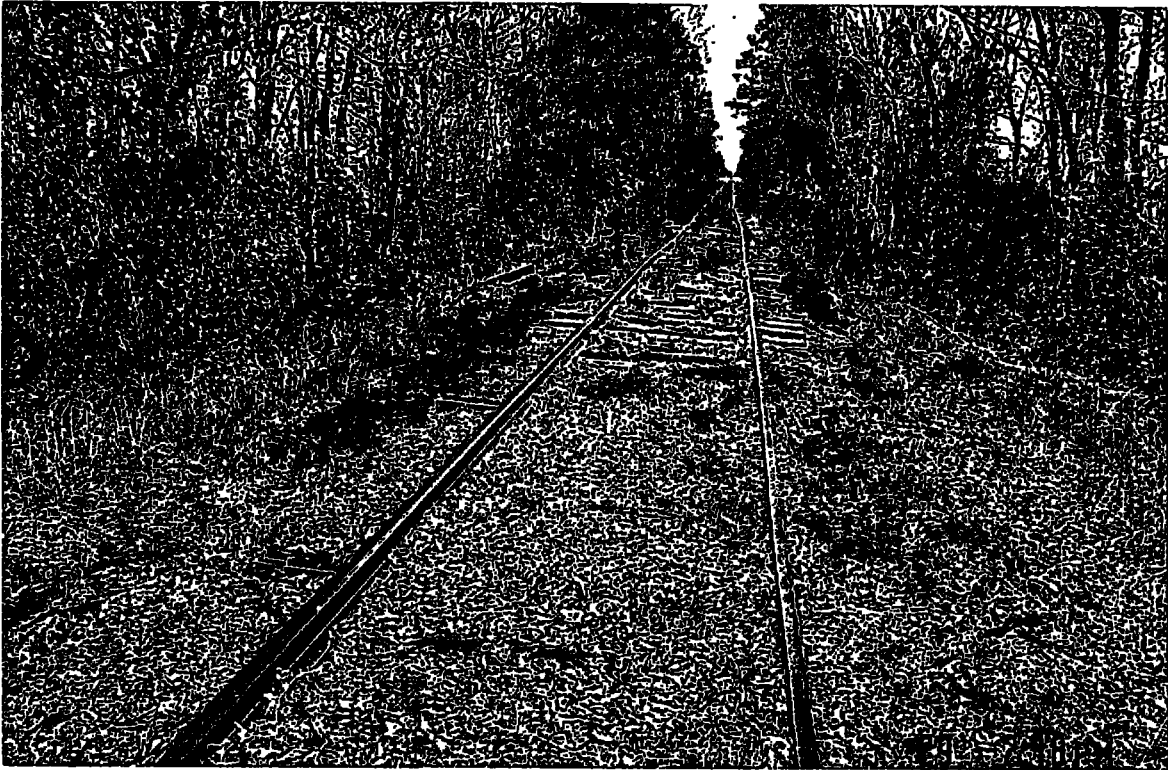
MP 420.7



MP 423



MP 425



MP 427



MP 429

PETITION FOR EXEMPTION

Appendix 5

**Mr. Vanderberry's Report
McHann Railroad Services, Inc.**

McHann Railroad Services, Inc.

of MS

Telephone 601 852-4501

Fax 601 852-5505

Railroad Construction and Maintenance

Post Office Box 229

Edwards, Mississippi 39066

December 1, 2010

Mr. William Wainright
Delta Southern Railroad
P.O. Box 1709
Tallulah, LA. 71282

RE: Estimated figures to repair track between Lake Village, and McGehee, Arkansas

Dear Mr. Wainright:

You asked us to provide you with some figures on repairing your railroad track between the two cities listed above. You and I hi-rail this section of track on November 29, 2010. The recommendation of our trip is as following.

The complete track and bridges needs to be completely removed and new track and bridges reconstructed. We both know this is almost impossible. The estimated figures which I have come up with is only a estimate. Some of the work which will be needed I'm not including it in our figures. This work consist of removing the existing track, working on clearing the right-of-way, after removing the bridges the amount needed to haul off and dispose of all materials, and the amount needed to prepare the track bed for the new track.

The track project which I have figures on is constructing new 115# track with all new 7" crossties, new 6" of ballast under the track, new track bolts, nut, and spikes. The rail materials would be No. 1 relay. The estimated cost to perform this work will be approximate \$792,000.00 per mile of track.

The bridge project, which I have figures on is based on each bridge, and are listed as following:

Bridge 413.8—Remove old bridge and construct new one. The new one will be same length as the old one which is 14' long. The amount needed for this is \$41,000.00

Bridge 420.6—Remove old bridge and construct new one. The new bridge will be the same length as the old one which is 43' long. The amount needed for this is \$125,929.00

Bridge 421.9—60' steel span bridge with 143' of North & South approaches. Replace all caps, all stringers, all deck ties, all guard rails, and 25 each piles. The amount for this bridge is \$256,000.00

Bridge 425.6—197' bridge. Replaced all caps, stringers, deck ties, guard rails, and 45 piles. The amount needed for this work is \$290,000.00.

Bridge 426.4—141' bridge. Replace 1/2 of the caps, all stringers, all deck ties and guard rails, and 25 piles. The amount needed for this work is \$203,000.00.

Bridge 429.0—141' bridge. This bridge has been burned in the past. New deck was installed. Recommend to replace all materials under the deck. The amount needed for this is \$249,850.00.

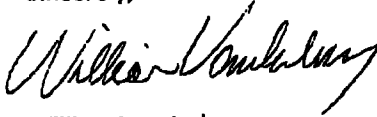
Bridge 429.3—28' bridge. Rebuild this bridge. The amount needed for this is \$82,000.00.

Bridge 429.6—71' bridge—Replace all caps, stringers, deck ties, guard rails, and 15 piles. The amount needed for this is \$121,000.00.

The amount estimated for the bridge work is \$1,368,779.00

We appreciated the opportunity to have submitted this estimate to you, and if you should need anything else just call.

Sincerely,

A handwritten signature in cursive script, appearing to read 'William Vanderberry', written in dark ink.

William Vanderberry
Vice President

PETITION FOR EXEMPTION

Appendix 6

Draft Environmental & Historic Report

BEFORE THE
SURFACE TRANSPORTATION BOARD

DELTA SOUTHERN RAILROAD, INC. --)
ABANDONMENT EXEMPTION -- IN.)
DESHA AND CHICOT COUNTIES, AR)

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

DELTA SOUTHERN RAILROAD, INC.
P.O. Box 1709
Tallulah, LA 71282

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

Attorney for Applicant

Date Submitted: November 15, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

DELTA SOUTHERN RAILROAD, INC. --) DOCKET NO. AB-384
ABANDONMENT EXEMPTION -- IN) (SUB-NO. 3X)
DESHA AND CHICOT COUNTIES, AR)

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

Pursuant to 49 C.F.R. § 1105.7 and 1105.8, DELTA SOUTHERN RAILROAD, INC.
(DSR) hereby submits this Draft Environmental and Historic Report.

I. Environmental Report

DSR hereby submits the following information required by 49 C.F.R. § 1105.7(e):

(1) Proposed action and alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

In the near future, DSR intends to file with the Surface Transportation Board (STB) a Petition of Exemption from 49 U.S.C. § 10903 for abandonment of a 24.1-mile rail line between Milepost 408.9 at or near McGehee and Milepost 433.0 at or near Lake Village, in Desha and Chicot Counties, Arkansas (the Rail Line). The Rail Line is shaded in yellow on a print that is attached as Appendix 1.

In the event of abandonment, the track materials in the Rail Line would be removed and sold for reuse, rerolling, or scrap, and the land in the right-of-way would be sold for nonrail use or conveyed for railbanking and interim recreational trail use.

Maintenance of the Rail Line would cease in the event of abandonment.

There is no reasonable alternative to abandonment inasmuch as DSR would continue to incur substantial operating losses, track rehabilitation costs, and opportunity costs unless the Rail Line were to be abandoned.

A map of the Rail Line is attached to this Report as Appendix 1.

(2) Transportation system. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

DSR believes that abandonment of the Rail Line will have a minimal effect on regional or local transportation systems and patterns. Only 81 carloads were transported over the Rail Line during 2009. Those rail shipments would be diverted to truck or to truck-rail transportation.

(3) Land use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

DSR believes that abandonment of the Rail Line would be consistent with existing land use plans. DSR is consulting by letter with planning agencies for the Cities of McGehee and Lake Village, Arkansas, and for Desha and Chicot Counties, Arkansas in order to obtain their views. See Appendix 2 attached to this Report.

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The proposed abandonment would have no effect on prime agricultural land. The Rail Line is primarily in a rural setting. Removal of trackage from the Rail Line should not have any effect on prime agricultural land. In accordance with this regulation, DSR is consulting by letter with the Natural Resources Conservation Service (Appendix 2 hereto).

(3)(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9.

The proposed abandonment does not affect land or water uses in a designated coastal zone.

(3)(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

In DSR's opinion, the right-of-way in the Line would be appropriate for alternative public use as a recreational trail.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on transportation of energy resources.

(4)(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will have no effect on recyclable commodities.

(4)(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed abandonment would result in a minor change in overall energy efficiency because 81 carloads per year recently transported by rail would be transported by less energy efficient transportation modes (i.e., truck or truck-rail transportation).

(4)(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in §§1105.7(e)(4)(iii) need not be supplied if the more detailed information in §§1105.7(e)(4)(iv) is required.

Not applicable, as no such diversions will occur.

(5) Air. (i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Not applicable, as no such increases will occur.

(5)(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Not applicable, as no such increases will occur.

(5)(iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Not applicable, as no such transportation will occur.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable, as no such thresholds will be surpassed.

(7) Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

The proposed exemption and the resulting abandonment will have a beneficial effect on public health and safety because existing rail crossings of public streets and private driveways would be able to be removed.

(7)(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Not applicable, as hazardous materials will not be transported.

(7)(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Not applicable, as no such sites will be affected.

(8) Biological resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The proposed exemption is unlikely to adversely affect endangered or threatened species or areas designated as critical habitat. In accordance with this regulation, DSR is consulting by letter with the U.S. Fish and Wildlife Service (Appendix 2).

(8)(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The proposed exemption will not affect wildlife sanctuaries or refuges, nor National or state parks or forests.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The proposed exemption will be consistent with applicable Federal, State or local water quality standards. In accordance with this regulation, DSR is consulting by letter with local water quality officials (Appendix 2).

(9)(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

DSR believes that permits under section 404 of the Clean Water Act are not required for the proposed exemption. The proposed exemption will not affect any designated wetlands or 100-year flood plains. In accordance with this regulation, DSR is consulting by letter with the U.S. Army Corps of Engineers (Appendix 2).

(9)(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

DSR believes that permits under section 402 of the Clean Water Act are not required for the proposed exemption. In accordance with this regulation, DSR is consulting by letter with the U.S. Environmental Protection Agency (Appendix 2).

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Not applicable, as there will be no adverse environmental impacts to mitigate.

II. Historic Report

DSR hereby submits the following information required by 49 C.F.R. § 1105.8(d):

(d)(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

The required topographic map is attached to this Report as Appendix 3.

(d)(2) A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

The right-of-way in the Rail Line is generally 100 feet wide. The surrounding area is primarily rural in nature.

(d)(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

Photographs of the bridges on the Rail Line are attached as Appendix 4.

(d)(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;

Not precisely known.

(d)(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

The Rail Line was constructed by Missouri Pacific Railroad Company (MP) between 1907 and 1915. MP was merged into Union Pacific Railroad Company (UP). UP sold the Rail Line to DSR in January, 1989.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

None available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

The Rail Line is not thought to meet the criteria for listing in the National Register of Historic Places. It is unlikely that there are archeological resources or previously unknown historic properties in the project area. In accordance with this regulation, DSR is consulting by letter with the Historical Preservation Office (Appendix 2 hereto).

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

DSR has no knowledge of any prior subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

Respectfully submitted,

DELTA SOUTHERN RAILROAD, INC.
P.O. Box 1709
Tallulah, LA 71282

Applicant



THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

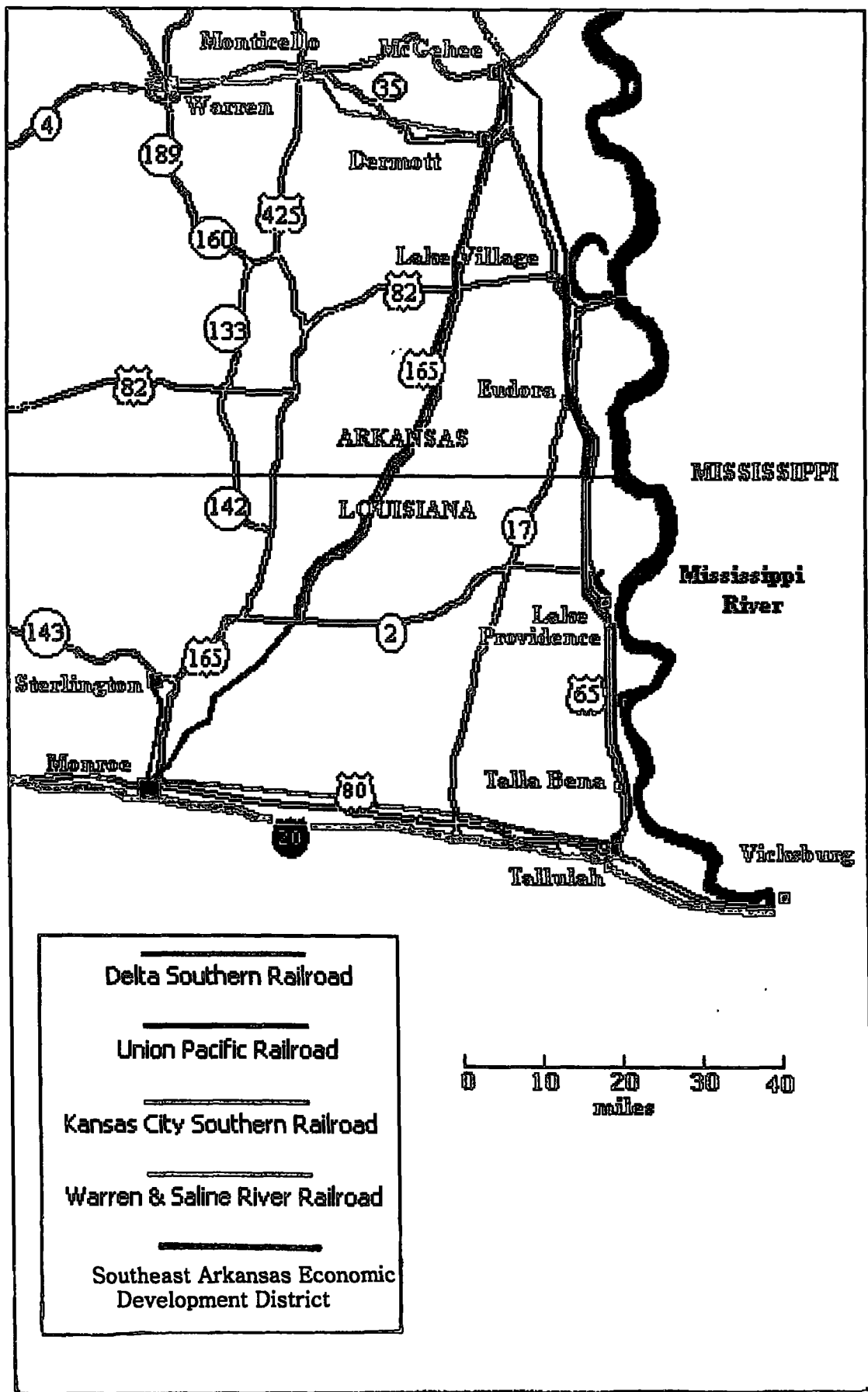
Attorney for Applicant

Date Submitted: November 15, 2010

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 1

Map of Rail Line pursuant to 49 C.F.R. § 1105.7(e)(1)



DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 2

**Letter dated November 4, 2010 to agencies
pursuant to 49 C.F.R. § 1105.7(b)(1)-(11)**

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

November 4, 2010

State Clearinghouse

Arkansas Office of Intergovernmental Service
Department of Finance and Administration
P.O. Box 3278
Little Rock, AR 72203

State Environmental Protection Agency

Arkansas Dept. of Pollution Control & Ecology
P.O. Box 9583
Little Rock, AR 72219

County Commissioners:

County Commissioners of Desha County
Robert S. Moore Street
Arkansas City, AR 71630

County Commissioners:

County Commissioners of Chicot County
108 North Main Street
Lake Village, AR 71653

City Planner:

City of Lake Village, AR
Planning & Development Department
7 N. Court Street
Lake Village, AR 71653

Environmental Protection Agency

(regional office):

Environmental Protection Agency - Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

City Planner:

City of McGehee, AR
Planning & Development Department
901 Holly Street
McGehee, AR 71654

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 4
Century Center
1875 Century Boulevard
Atlanta, GA 30345

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
5404 Federal Building, Rm. 3416
700 West Capital Avenue
Little Rock, AR 72201

National Park Service:

Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Arkansas Historical Preservation Office:

Arkansas Department of Arkansas Heritage
Arkansas Historic Preservation Program
The Heritage Center
323 Center Street, Suite 1500
Little Rock, AR 72201

Re: STB Docket No. AB-384 (Sub-No. 3X), *Delta Southern Railroad, Inc.* --
Abandonment Exemption -- in Desha and Chicot Counties, AR

November 4, 2010

Page 2

Dear Agency or Governmental Representative:

Delta Southern Railroad, Inc. (DSR) is a common carrier by railroad whose address is P.O. Box 1709, Tallulah, LA 71282. In the near future, DSR intends to file with the Surface Transportation Board (STB) a Petition for Exemption from 49 U.S.C. § 10903 for abandonment of a 24.1-mile rail line between Milepost 408.9, at or near McGehee, and Milepost 433.0 at or near Lake Village, in Desha and Chicot Counties, Arkansas (the Rail Line). At Milepost 408.9, the Rail Line connects with a rail line owned by Union Pacific Railroad Company (UP). At Milepost 433.0, the Rail Line connects with a rail line owned by Southeast Arkansas Economic Development District (SAEDD). The Rail Line is used to originate or terminate traffic for only one shipper, Epstein Gin, which is located at Lake Village, AR, at approximately Milepost 431.3. The Rail Line is shaded in yellow on a map that is attached to this letter as Appendix 1.

Before filing a Petition for Exemption for abandonment of the Rail Line, DSR is required to prepare and circulate to appropriate local government agencies a Draft Environmental and Historic Report that will be reviewed by the STB in conjunction with its determination of whether or not the proposed abandonment would have a significant adverse effect on the human environment or on historic resources. This letter is intended to consult with your agency in regard to the environmental and historic effects of the proposed abandonment.

Pursuant to STB regulations at 49 C.F.R. § 1105.7, this letter is to request your assistance in identifying potential environmental and historic effects of that proposed abandonment. DSR does not anticipate any adverse environmental or historic impacts; however, if you identify any such adverse impacts, please describe any action that could be taken to mitigate such adverse impacts. Please provide a written response to this letter as soon as possible so that your response can be included in a Draft Environmental and Historic Report that DSR will prepare, file with the STB, and serve on interested agencies.

COUNTY AND CITY PLANNING AGENCIES. Please state whether the proposed abandonment would be consistent with existing land-use plans. Describe any inconsistencies.

US SOIL CONSERVATION SERVICE. Please state the effect of the proposed abandonment on any prime agricultural land.

US FISH AND WILDLIFE SERVICE. Please state (1) whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat and, if so, please describe such effects; and (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and, if so, please describe such effects.

THOMAS F. MCFARLAND

November 4, 2010

Page 3

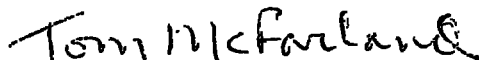
STATE WATER QUALITY OFFICIALS. Please state whether the proposed abandonment would be consistent with applicable Federal, State or Local water quality standards. Please describe any inconsistencies.

US AND STATE ENVIRONMENTAL PROTECTION AGENCIES (OR EQUIVALENT AGENCY). Please (1) identify any potential adverse environmental effects of the proposed abandonment on the surrounding area, and (2) identify the location of any known hazardous materials spills on the right-of-way of the Rail Line, and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed abandonment.

STATE HISTORICAL PRESERVATION OFFICE. Please identify any bridges or other structures on the Rail Line that are historically significant. The Rail Line was constructed by Missouri Pacific Railroad Company between 1907 and 1915.

Please send your reply to me as DSR's attorney to: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112. You may reach me by telephone at (312) 236-0204 if you have any questions or need further information. DSR appreciates your assistance in furnishing a reply to this letter.

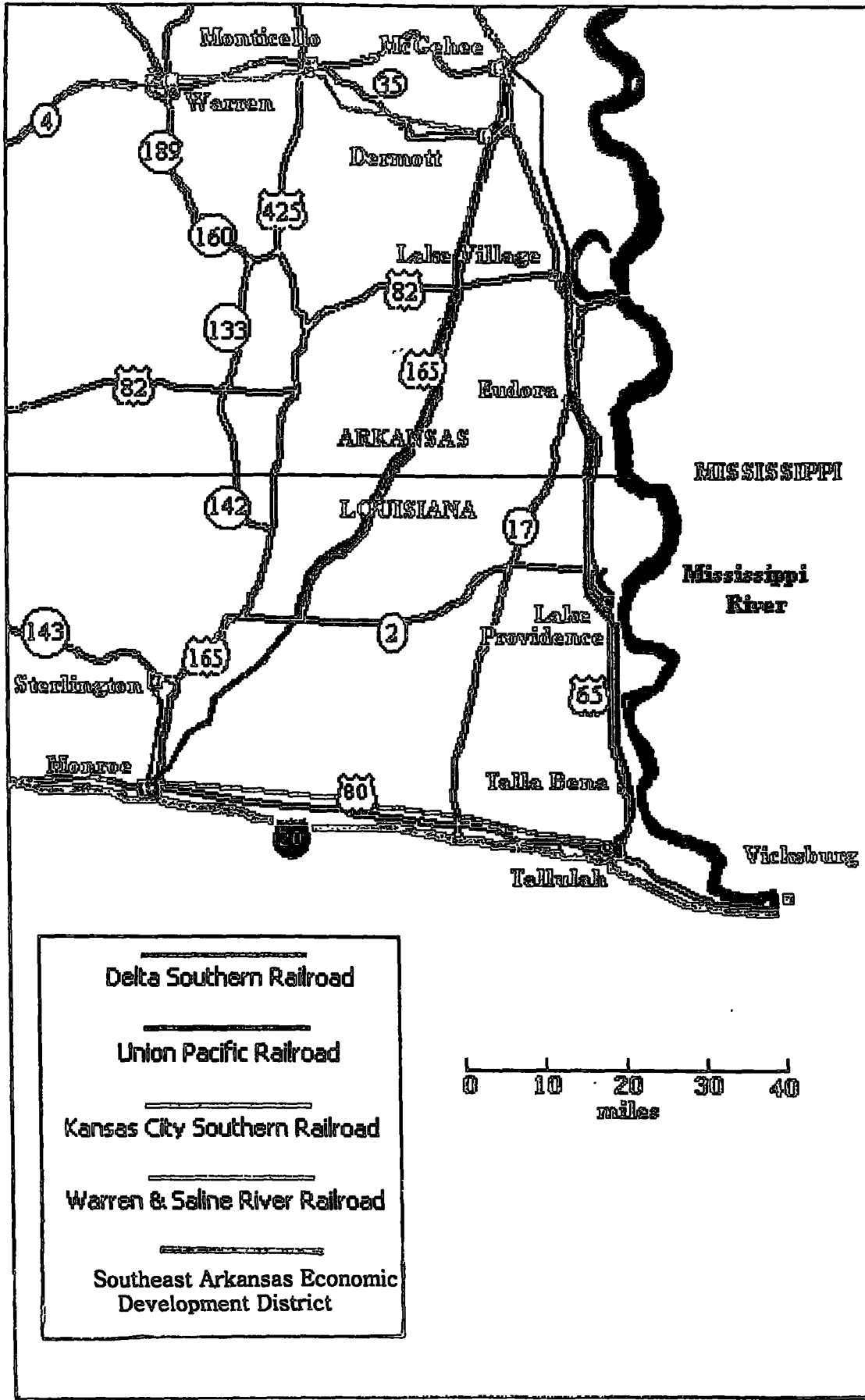
Very truly yours,



Thomas F. McFarland
Attorney for Delta Southern Railroad, Inc.

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cc: Mr. William Wainright, *by fax*



DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 3

Topographic map pursuant to 49 C.F.R. § 1105.8(d)(1)

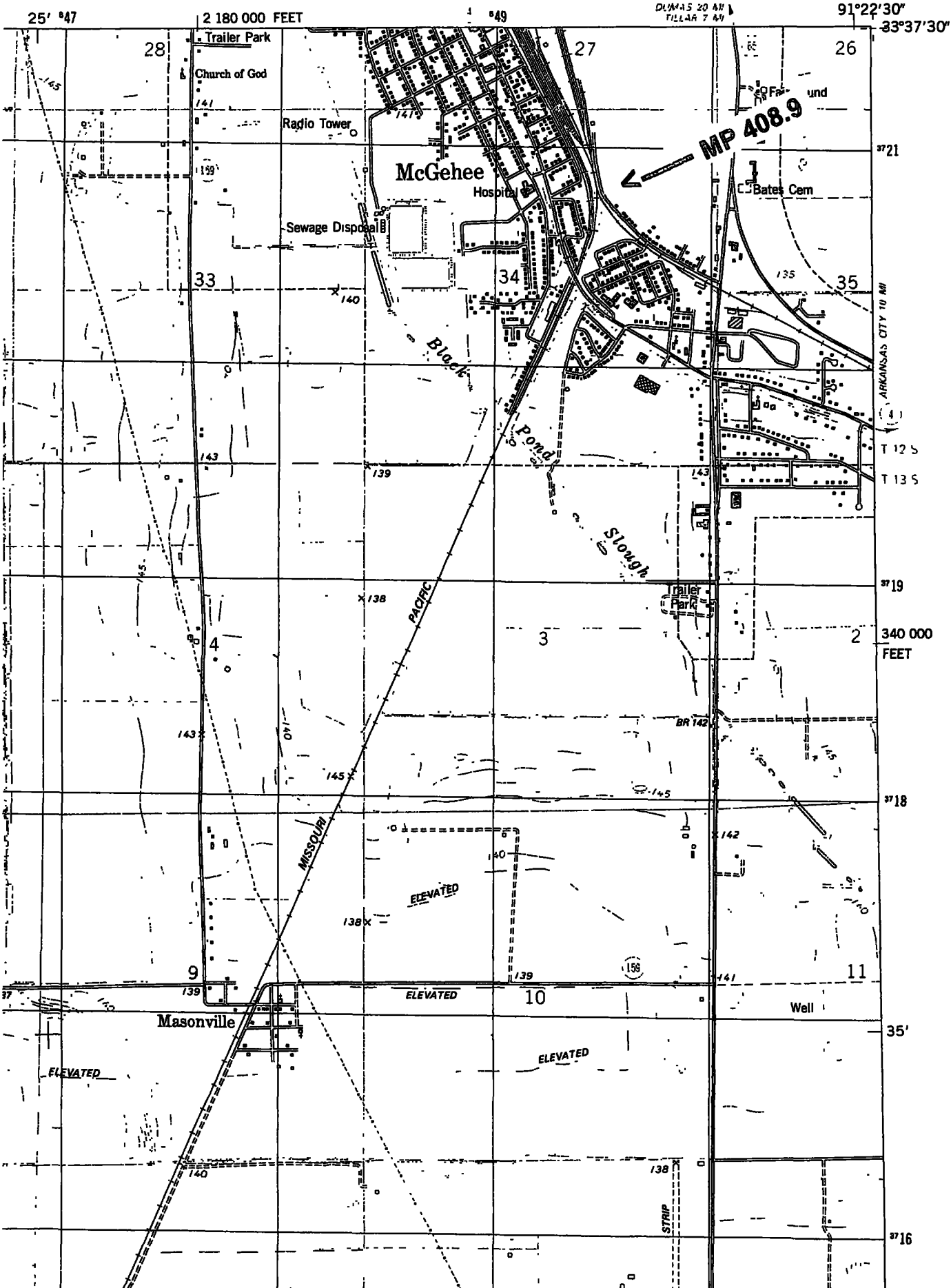
MC GEHEE SOUTH QUADRANGLE

ARKANSAS

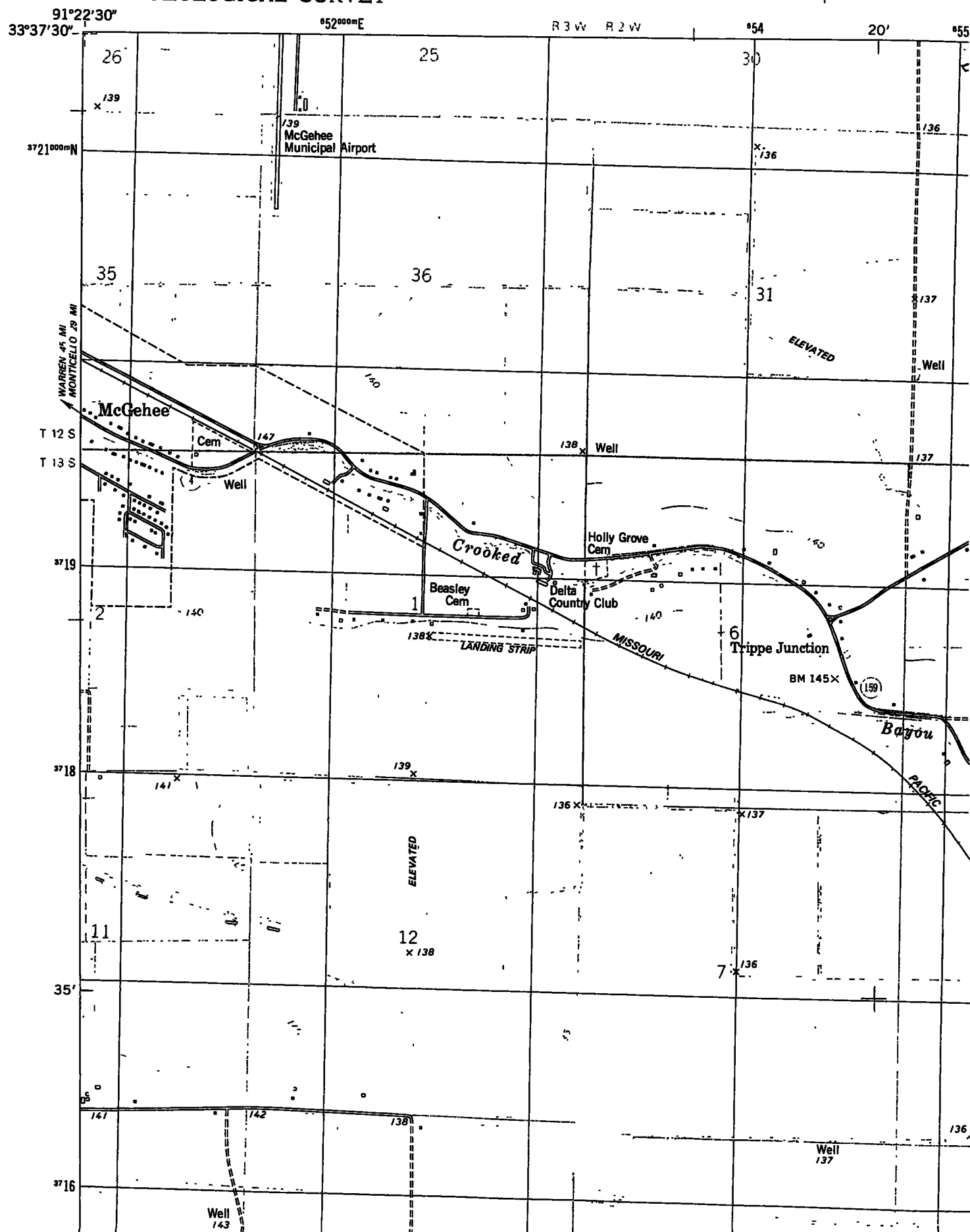
7.5 MINUTE SERIES (TOPOGRAPHIC)

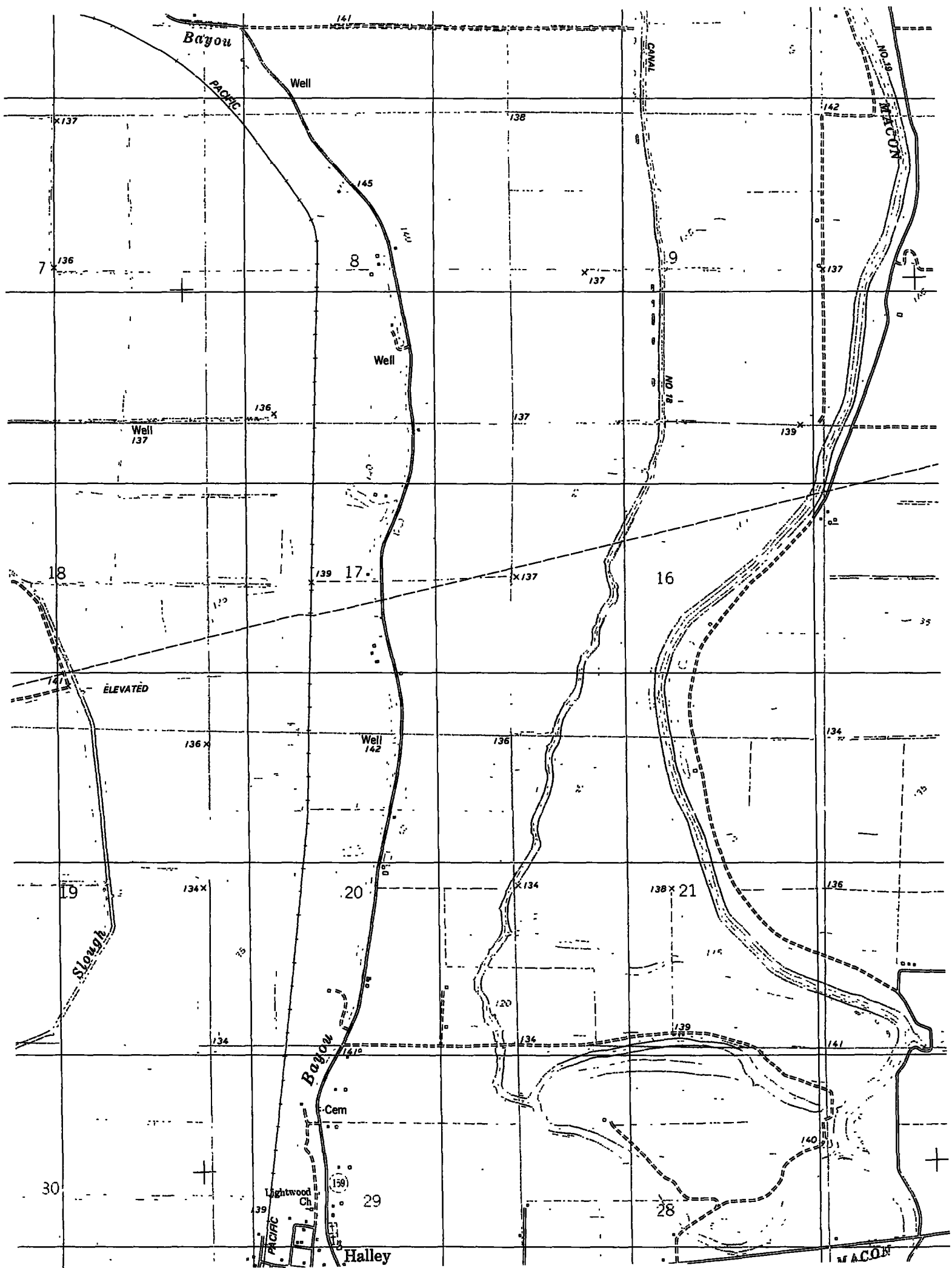
SW/4 MC GEHEE 15' QUADRANGLE

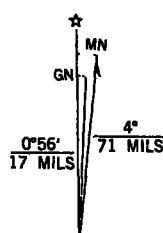
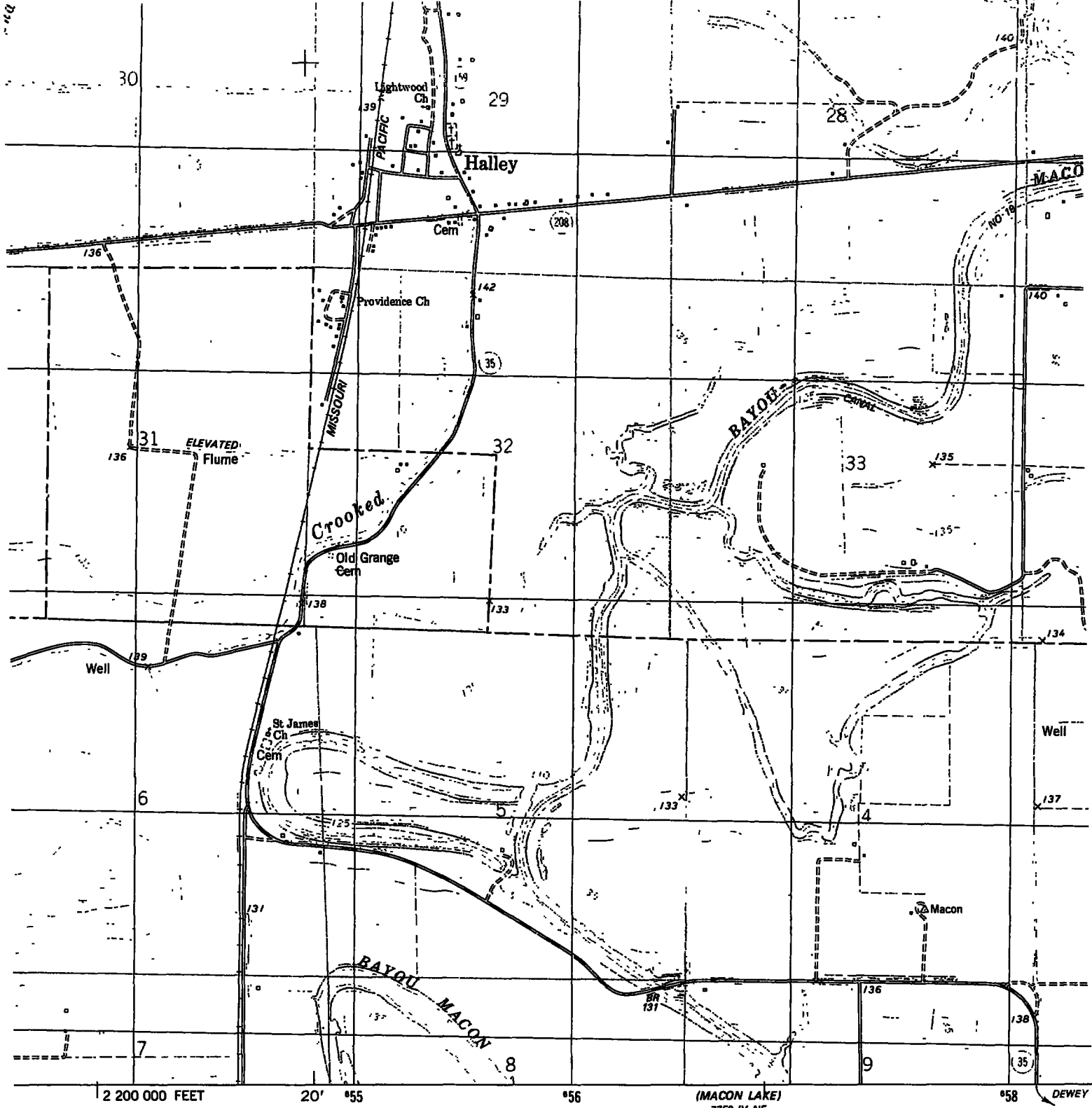
7751 M NE
(MC ARTHUR)



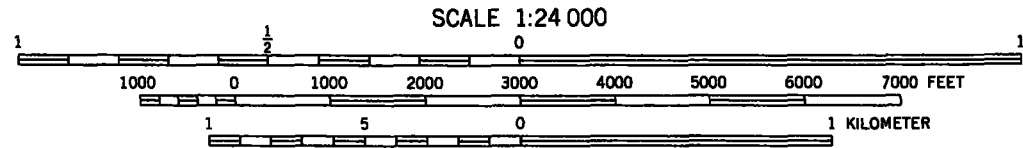
7751 13 NW
(MAC GEHEE NORTH)







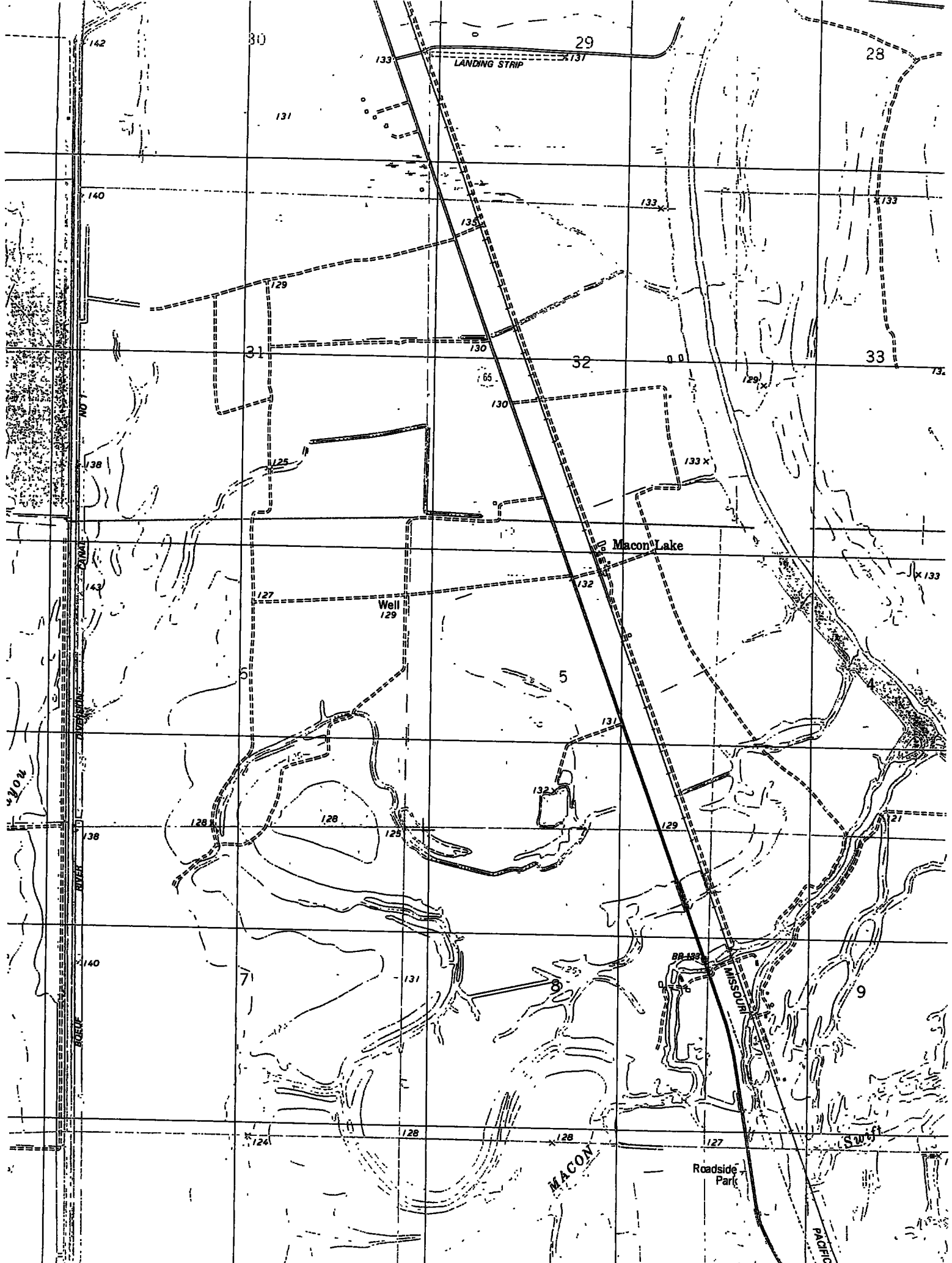
UTM GRID AND 1981 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

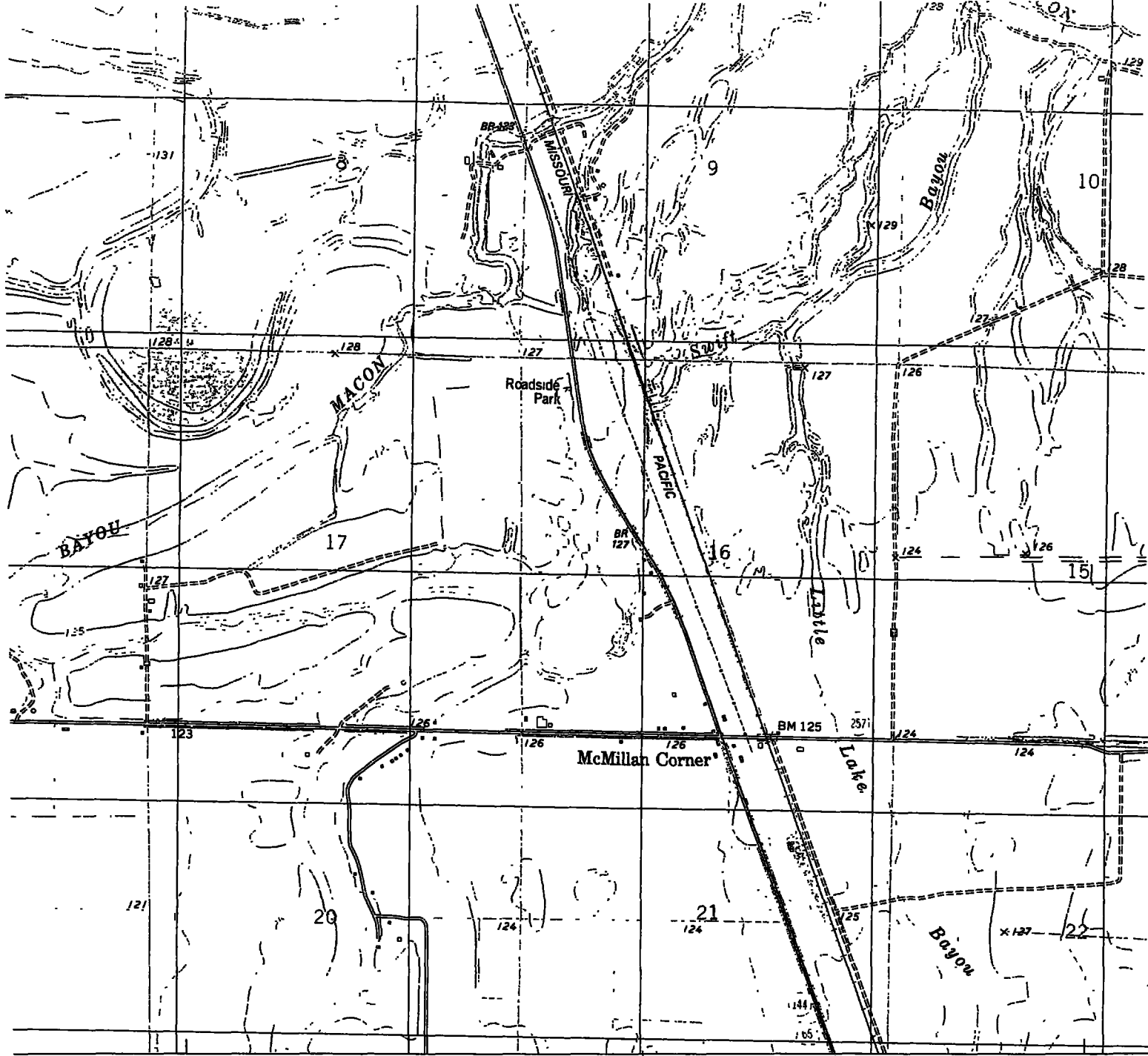


CONTOUR INTERVAL 5 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
AND ARKANSAS GEOLOGICAL COMMISSION, LITTLE ROCK, ARKANSAS 72204
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

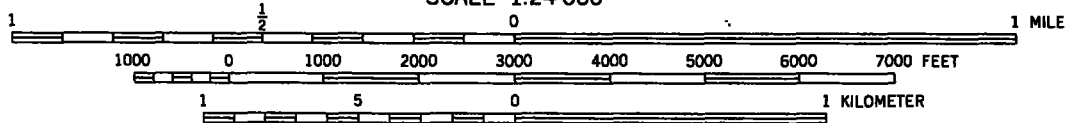
This is a detailed topographic map of a coastal area, likely a bay or estuary. The map is overlaid with a grid system. The horizontal axis (top) is labeled with coordinates 12, 20, 55, 56, and 57. The vertical axis (left) is labeled with coordinates 12, 3, 4, 5, and 30. The map shows a river labeled 'Macon' flowing from the top right towards the bottom right. A prominent diagonal line is labeled 'Crooked B'. Other features include 'Norcross', 'PACIFIC', 'MISSOURI', and 'LANDING STRIP'. Contour lines are drawn throughout the map, indicating elevation. Various points are marked with dots and labeled with numbers like 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893,





FEET 20' 56 (LAKE VILLAGE) 7750 IV SE LAKE VILLAGE 32 MI SUDO 94 20 MI 17'30"

SCALE 1:24 000

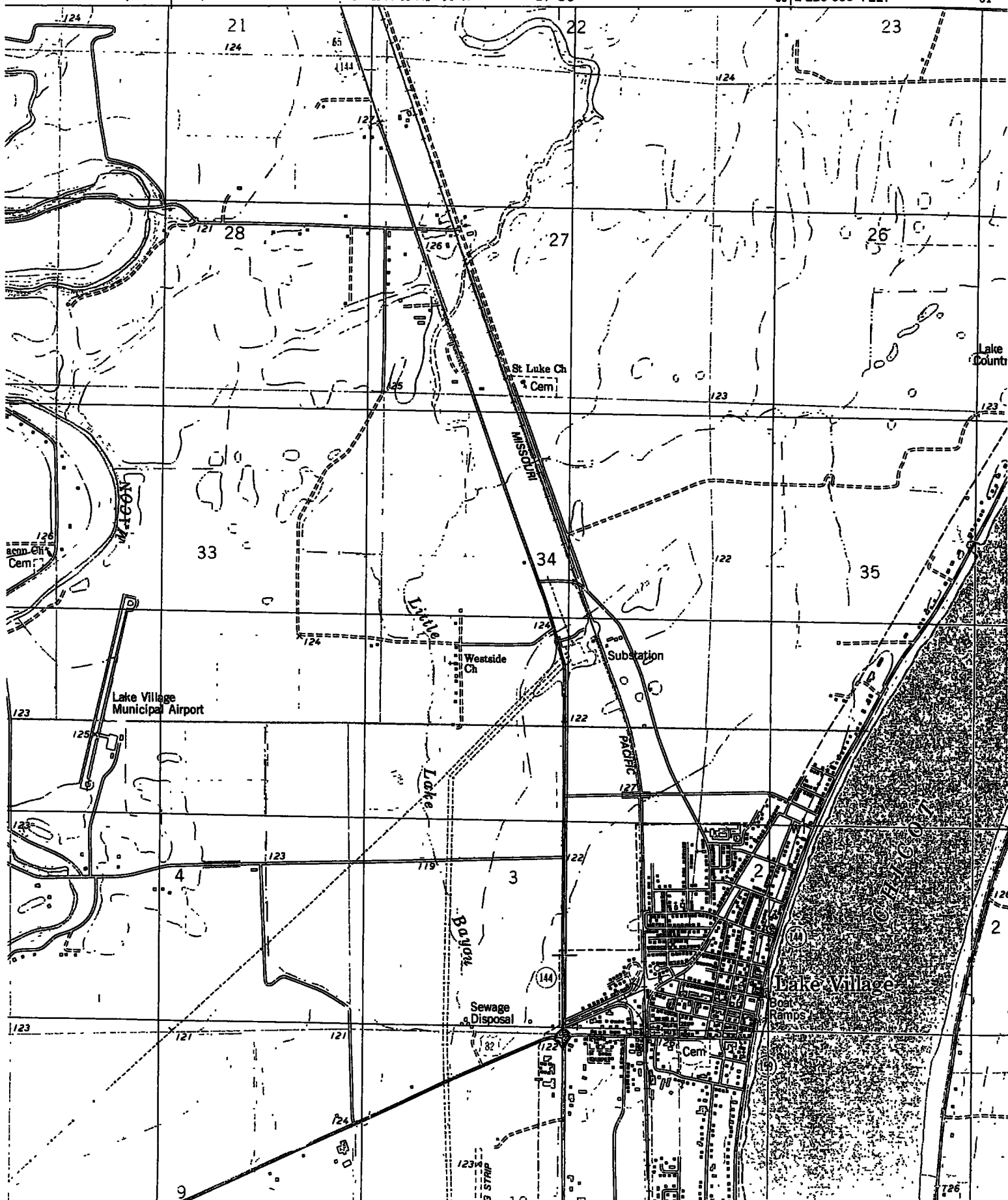


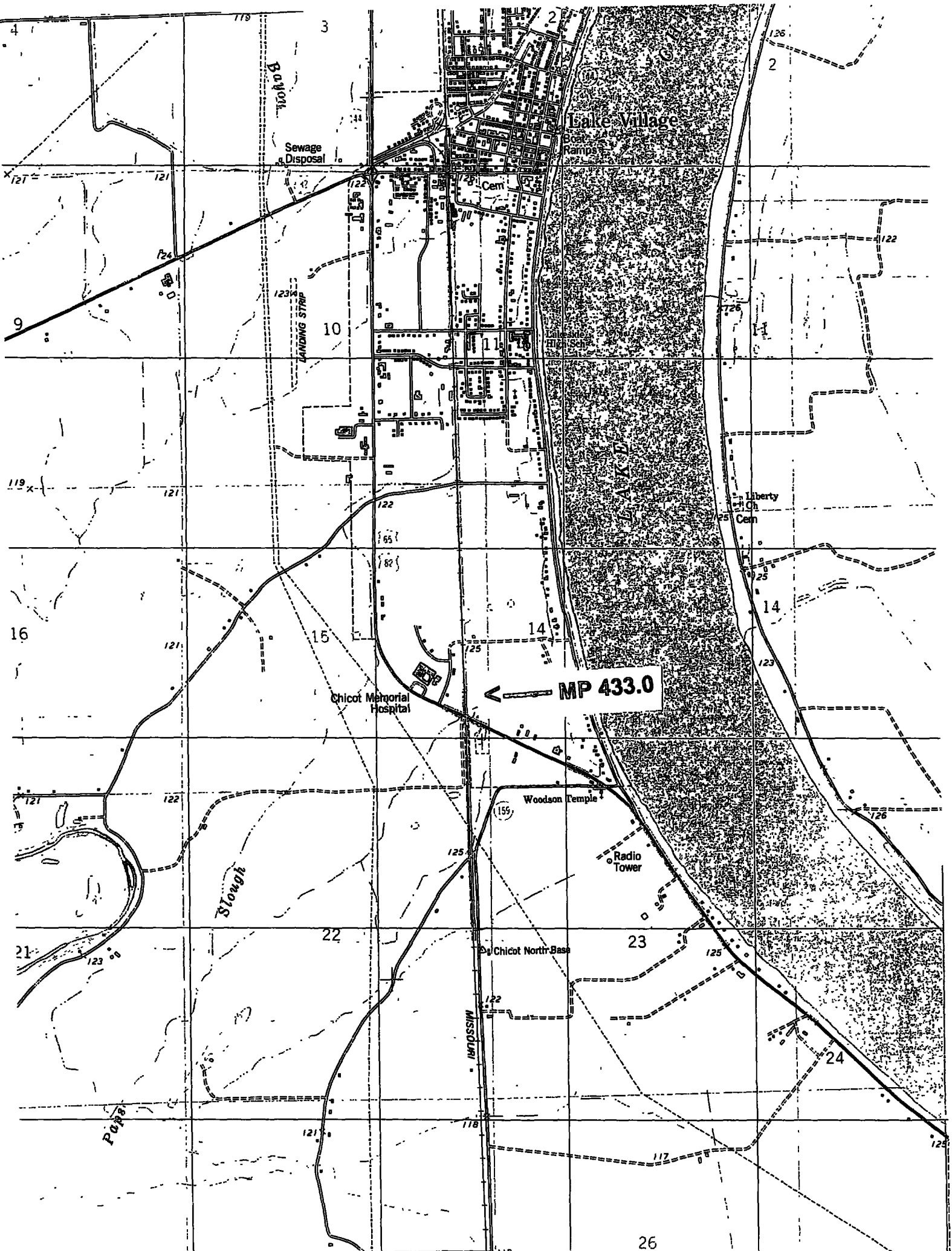
CONTOUR INTERVAL 5 FEET
NATIONAL GEODETIC VERTICAL DATUM OF 1929

MN
4°
71 MILS
11 MAGNETIC NORTH
CENTER OF SHEET

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092
AND ARKANSAS GEOLOGICAL COMMISSION, LITTLE ROCK, ARKANSAS 72204
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

61

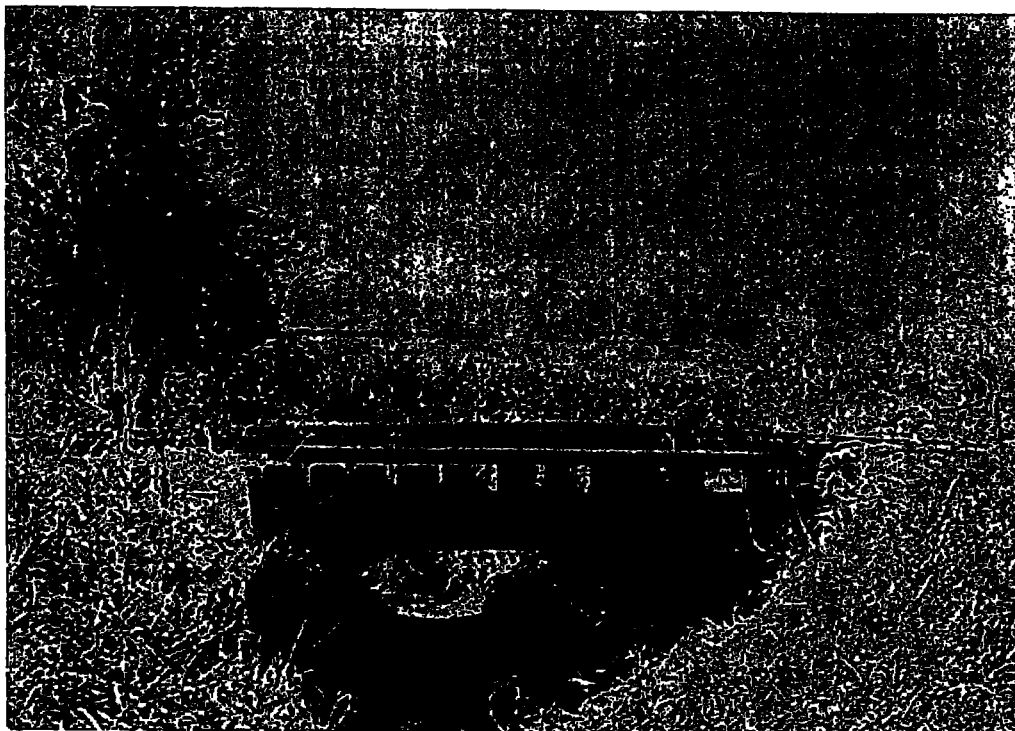




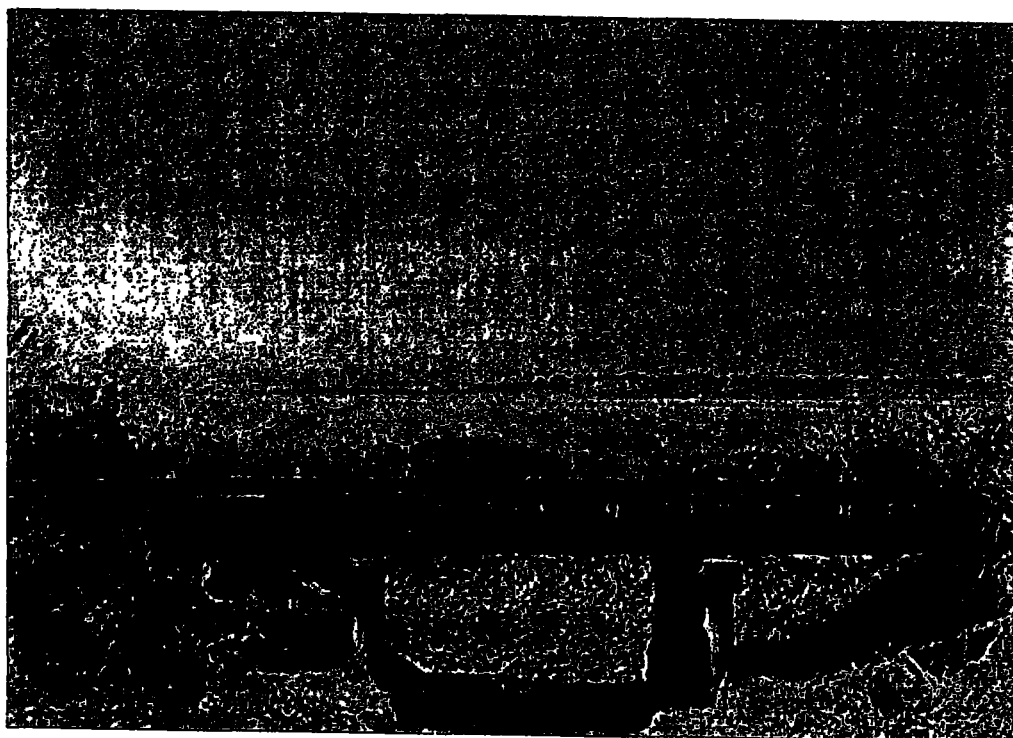
DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 4

Bridge photographs pursuant to 49 C.F.R. § 1105.8(d)(3)



MP 413.8



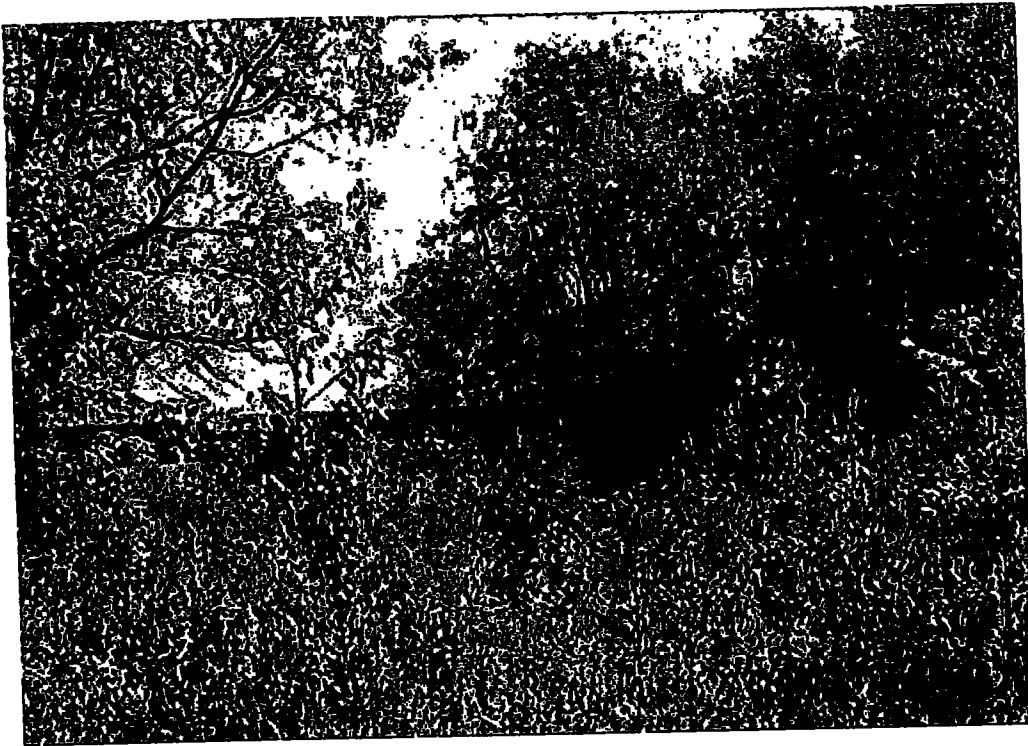
MP 420.6



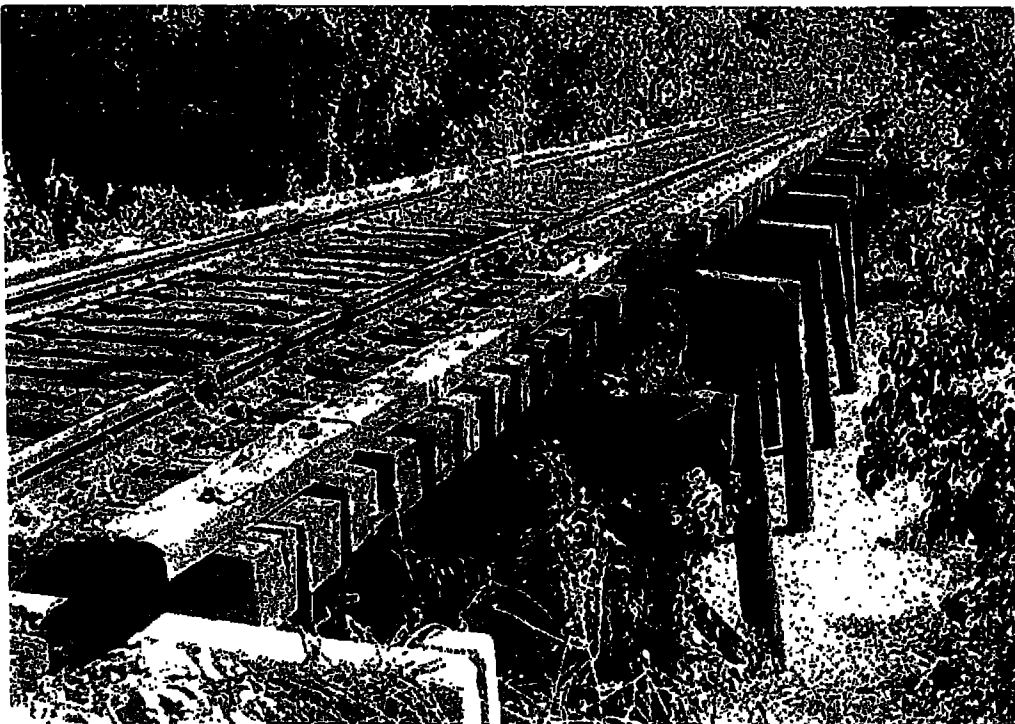
MP 421.9



MP 425.6



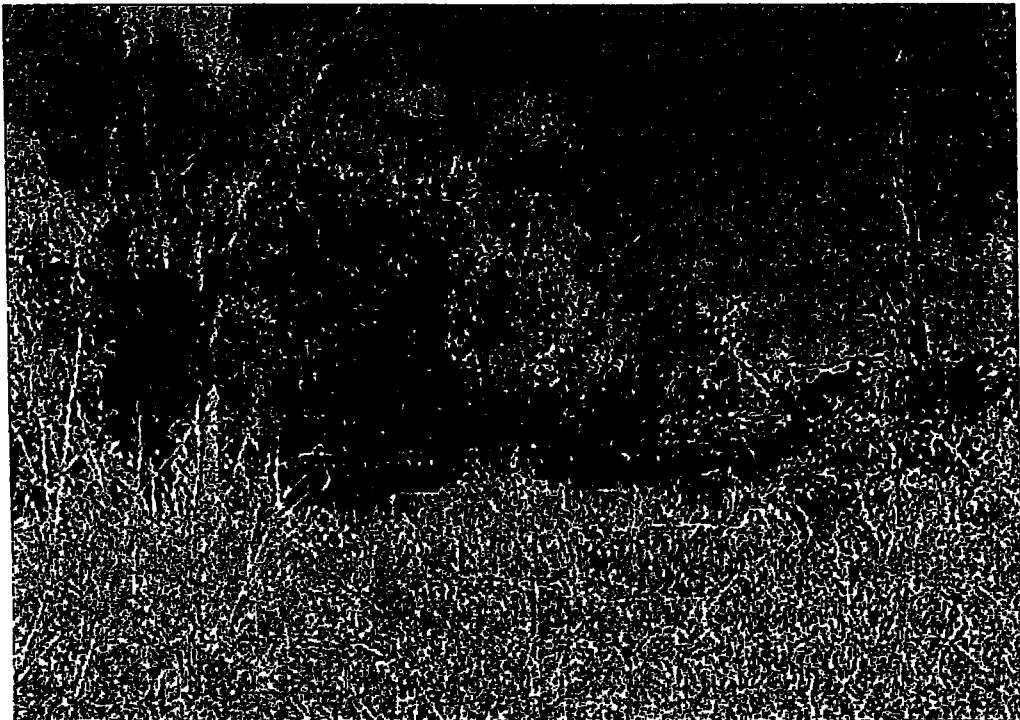
MP 426.4



MP 429.0



MP 429.3



MP 429.6

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2010, I served the foregoing document, Draft Environmental and Historic Report, by first-class, U.S. mail, postage prepaid, on the following:

State Clearinghouse

Arkansas Office of Intergovernmental Service
Department of Finance and Administration
P.O. Box 3278
Little Rock, AR 72203

State Environmental Protection Agency

Arkansas Dept. of Environmental Quality
5301 Northshore Dr.
North Little Rock, AR 72118

County Commissioners:

County Commissioners of Desha County
Robert S. Moore Street
Arkansas City, AR 71630

County Commissioners:

County Commissioners of Chicot County
108 North Main Street
Lake Village, AR 71653

City Planner:

City of Lake Village, AR
Planning & Development Department
7 N. Court Street
Lake Village, AR 71653

Environmental Protection Agency (regional office):

Environmental Protection Agency - Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

City Planner:

City of McGehee, AR
Planning & Development Department
901 Holly Street
McGehee, AR 71654

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 4
Century Center
1875 Century Boulevard
Atlanta, GA 30345

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
New Orleans District
P.O. Box 60267
New Orleans, LA 70160-0267

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
5404 Federal Building, Rm. 3416
Little Rock, AR 72201

National Park Service:


Planning and Compliance Office
National Park Service - Southeast Region
100 Alabama St., SW
Atlanta, GA 30303

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Arkansas Historical Preservation Office:

Arkansas Department of Arkansas Heritage
Arkansas Historic Preservation Program
The Heritage Center
323 Center Street, Suite 1500
Little Rock, AR 72201



Thomas F. McFarland

PETITION FOR EXEMPTION

Appendix 6-A

Response to Draft Environmental & Historic Report



**The Department of
Arkansas
Heritage**

Mike Beebe
Governor

Cathie Matthews
Director

Arkansas Arts Council

Arkansas Natural Heritage
Commission

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars
Cultural Center

Old State House Museum



**Arkansas Historic
Preservation Program**

1500 Tower Building
323 Center Street
Little Rock, AR 72201
(501) 324-9880
fax: (501) 324-9184
tdd: (501) 324-9811

e-mail:

info@arkansaspreservation.org

website:

www.arkansaspreservation.com

An Equal Opportunity Employer



1462-A

RECEIVED

NOV 29 2010

McFARLAND, P.C.

November 23, 2010

Mr. Thomas F. McFarland
Law Office of Thomas F. McFarland, P.C.
208 South LaSalle Street, Suite 1890
Chicago, Illinois 60604-1112

RE: Multi County - Lake Village
Section 106 Review - STB
Delta Southern Railroad Line Abandonment between Mile 408.9 and
433.0 near Lake Village; STB Docket No. AB-384 (Sub-No. 3X)
AHPP Tracking No: 74429

Dear Mr. McFarland:

This letter is written in response to your inquiry regarding properties of architectural, historical, or archeological significance in the area of the referenced project. My staff has reviewed the documentation regarding the above-referenced undertaking, and our records show that six archeological sites (3CH134, 3CH151, 3CH152, 3CH153, 3CH154 and 3DE134) and three historic structures (CH0016 - Missouri Pacific Railroad Depot, CH0059 - New Hope Missionary Baptist Church Cemetery and CH0179 - Epstein Gin) are located near the subject project but will not be affected by the proposed abandonment. Therefore, we have no objection to this undertaking and find that it will have no adverse effect on historic properties.

Thank you for the opportunity to comment on this undertaking. If you have any questions, please contact Steve Imhoff of my staff at (501) 324-9880.

Sincerely,

Frances McSwain

Frances McSwain
Deputy State Historic Preservation Officer

cc: Mr. Earl J. Barbry, Tunica-Biloxi Tribe of Louisiana, Inc.
Mr. Tracy L. Copeland, State Clearinghouse
Dr. Ann M. Early, Arkansas Archeological Survey
Ms. Jean Ann Lambert, Quapaw Tribe of Oklahoma
Ms. Victoria Rutson, Surface Transportation Board

DRAFT FEDERAL REGISTER NOTICE PER 49 C.F.R. 1152.60(c)

**STB No. AB-384 (Sub-No. 3X), *Delta Southern Railroad, Inc.*
-- *Abandonment Exemption -- in Desha and Chicot Counties, AR***

Notice of Petition for Exemption to Abandon a Rail Line

On December 6, 2010, DELTA SOUTHERN RAILROAD, INC. (DSR), filed with the Surface Transportation Board, Washington, DC, a Petition for Exemption from 49 U.S.C. 10903 for abandonment of a rail line between Milepost 408.9 at or near McGehee and Milepost 433.0 at or near Lake Village, which traverses through 71638, 71653 and 71654 United States Postal Service ZIP Codes, a distance of 24.1 miles, in Desha and Chicot Counties, Arkansas (the Rail Line). There are no rail stations on the Line.

The rail line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees would be protected by imposition of conditions to approval of abandonment imposed in *Oregon Short Line R. Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

PETITION FOR EXEMPTION

Appendix 8

Newspaper Notices

Proof Of Publication

Whitney White, being duly sworn, deposes and says that she is Editor/General Manager of The Chicot County Spectator/The Eudora Enterprise, a weekly newspaper published at Lake Village, Chicot County, Arkansas, and having a bona fide circulation in Said County and State, for a period of one year before the date of the publication of this:

ATTACHED Notice of Intent To File A Petition
and that the said: SAME

a true copy of which is hereto annexed and attached, was placed in "Chicot County Spectator" for 1 consecutive issues, dated as follows, to-wit:

December 1, 2010
_____, 2010
_____, 2010
_____, 2010
_____, 2010
_____, 2010

(Signed)

Editor/General Manager

Subscribed and sworn to me before this 3rd day of

December, 2010

Clara Laye Emerson

Notary Public

My commission expires: My Commission Expires February 10, 2011

Total: \$98.75

BEFORE THE SURFACE TRANSPORTATION BOARD WASHINGTON, D.C. 20423

STB Docket No. AB-384 (Sub-No. 3X)
DELTA SOUTHERN RAILROAD,
INC. ABANDONMENT EXEMPTION
IN DESHA AND CHICOT COUNTIES,
AR

NOTICE OF INTENT TO FILE A PETITION
FOR EXEMPTION FOR ABANDONMENT

DELTA SOUTHERN RAILROAD, INC. (DSR) gives notice that on or about December 6, 2010, it intends to file with the Surface Transportation Board, Washington, D.C. 20423, a Petition for Exemption under 49 CFR 1152.60 permitting the abandonment of a 24.1-mile rail line between Milepost 408.9 at or near McGehee and Milepost 433.0 at or near Lake Village, in Desha and Chicot Counties, Arkansas (the Rail Line). The Rail Line extends through United States Postal Zip Codes 71653, 71654 and 71638. The proceeding is docketed as STB Docket No. AB-384 (Sub-No. 3X), Delta Southern Railroad, Inc. - Abandonment Exemption - in Desha and Chicot Counties, AR.

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 395 E Street, SW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative, [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use, or trails use may be directed to the Board's Office of Congressional and Public Services at 202-245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112; phone 312-236-0204.

#9928

11.24.1tc

STATE OF ARKANSAS,

COUNTY OF Desha ss.

I, Rachel D. Freeze Editor of The McGehee Dermott Times-News, a weekly newspaper

printed and published at and during the publication of the annexed legal advertisement in the case of 9928 Abandonment Exemption

Delta Southern Railroad

pending in the _____ Court, in said County, and on the dates of the several publications of said advertisement hereinafter stated, and that during said periods and on said dates, said newspaper was printed and had a bona fide circulation in said County; that said newspaper had been regularly printed and published in said County, and had a bona fide circulation therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular issues of said newspaper for 1 times, the first publication thereof

was made on 24 day of 11, 2010.

the second on the _____ day of _____, 20____.

the third on the _____ day of _____, 20____.

the fourth on the _____ day of _____, 20____.

the fifth on the _____ day of _____, 20____.

the sixth on the _____ day of _____, 20____.

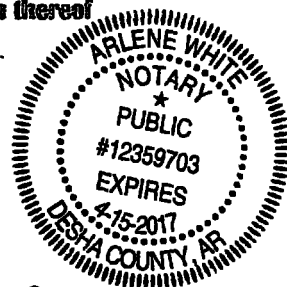
the last on the _____ day of _____, 20____.

Fees for Printing \$ 108.64

Cost of Proof \$ 1.00

Total \$ 109.64

R.D. Freeze
Subscribed and sworn before me this
24 day of November, 2010
Arlene White
Notary Public





CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2010, I served the foregoing document, Petition For Exemption, by first-class, U.S. mail, postage prepaid, on the following:

Arkansas Office of Intergovernmental Service
Department of Finance and Administration
P.O. Box 3278
Little Rock, AR 72203

SDDCTEA
Railroads for National Defense Program
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

National Park Service
Recreational Resources Assistance Division
P.O. Box 37127
Washington, DC 20013-7127

United States Department of Agriculture
Chief of the Forest Service
4th Floor NW, Yates Bldg.
14th Street & Independence Ave., S.W.
Washington, DC 20250

U.S. Department of Interior
National Park Service
Land Resources Division
800 North Capitol St., N.E.
Room 540
Washington, DC 20002

Mr. D. Thomas Ross
Assistant Director
U.S. Department of Interior (Org code 2220)
Recreation and Conservation
1849 C Street, N.W.
Washington, DC 20240

Transportation Manager
Epstein Gin
537 Reynolds Street
Lake Village, AR 71653



Thomas F. McFarland



Handwritten text, possibly a signature or a name, located in the lower left quadrant of the page.